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UNITED STATES DISTRICT COURT
OFFICIAL CERTIFIED TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA, :
 :
vs. : DOCKET NUMBER
 : 1:17-CR-0224-1
ALLEN J. PENDERGRASS, :
 : ATLANTA, GEORGIA
DEFENDANT. : DECEMBER 1, 2021

TRANSCRIPT OF JURY TRIAL - VOLUME II OF IV PROCEEDINGS

BEFORE THE HONORABLE AMY TOTENBERG

UNITED STATES SENIOR DISTRICT JUDGE

APPEARANCES OF COUNSEL:

FOR THE GOVERNMENT:

JEFFREY A. BROWN
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UNITED STATES ATTORNEY'S OFFICE

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***MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED
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P R O C E E D I N G S

(Atlanta, Fulton County, Georgia; December 1, 2021.)

THE GOVERNMENT'S CASE (CONTINUED).

THE COURT: Are you ready with your witness?

MR. BROWN: Yes. Mr. Cohen is here.

(Witness sworn)

COURTROOM DEPUTY CLERK: Thank you. Have a seat.
Please grab a plastic bag out of the box. Place it over the
mic. Then you may remove your mask when you are speaking.

And if you would, state your name and spell your last
name for the record.

THE WITNESS: State my name and what?

COURTROOM DEPUTY CLERK: Excuse me?

THE WITNESS: State my name and what?

COURTROOM DEPUTY CLERK: Spell your last name for the
record.

THE WITNESS: My name is Michael Cohen, C-O-H-E-N.

Whereupon,

MICHAEL COHEN,

after having been first duly sworn, testified as follows:

VOIR DIRE EXAMINATION

BY MR. BROWN:

Q. What kind of work do you do?

A. I'm an attorney. I do landlord/tenant work.

Q. How long have you been doing that kind of work?

1 **A.** Since 1972.

2 **Q.** So obviously you know why you are here in court today as
3 it relates to your dealings with Mr. Allen Pendergrass?

4 **A.** I do.

5 **Q.** Have you had a chance to look at Government's Exhibit
6 Number 29, which is an email dated March 6, 2013, from
7 mcohen@nsidelaw.com to Allen Pendergrass, which is
8 pendergrassallen@gmail.com?

9 **A.** Yes.

10 **Q.** And also an individual, E. Earvin?

11 **A.** Yes.

12 COURT REPORTER: I'm sorry. I didn't get that.

13 MR. BROWN: Earvin Magic Johnson.

14 **Q.** **(BY MR. BROWN)** Then do you see the second page of that
15 email which is a response from Allen Pendergrass to you at
16 mcohen@nsidelaw, N-S-I-D-E, law.com?

17 **A.** I do.

18 **Q.** All right. Have you spoken with investigators over these
19 last few years about your dealings with Mr. Pendergrass?

20 **A.** I did.

21 **Q.** And based on your review of the email and your memory, do
22 you recall having dealings with Allen Pendergrass as it relates
23 to some funds from Harris County, Texas?

24 **A.** Yes.

25 **Q.** Can you just tell the Judge what your involvement was with

1 these funds from Harris County, Texas, and how you came to meet
2 Mr. Pendergrass?

3 **A.** Well, I was assisting a friend of his or associate of his
4 with some Fair Debt Collection practice issues.

5 **Q.** Let me stop you there. So who was that associate of
6 Mr. Pendergrass who you were -- who you were assisting?

7 **A.** Mr. Earvin.

8 THE COURT: Mr. Who?

9 THE WITNESS: Earvin, E-A-R-V-I-N.

10 **Q. (BY MR. BROWN)** And is that the same individual who is
11 copied on the email that we just referenced earlier?

12 **A.** Yes.

13 **Q.** So explain how you end up meeting -- did you actually meet
14 Mr. Pendergrass?

15 **A.** Yes.

16 **Q.** Where did you meet Mr. Pendergrass?

17 **A.** In my office on Wieuca Road.

18 **Q.** And what was the nature of that meeting?

19 **A.** They had a -- he had a business plan where he would mine
20 data from counties to see if there were funds -- unclaimed
21 funds in their tax -- property tax departments. And he said he
22 had some funds that were collected, and he wanted to know if I
23 would assist in being an escrow agent and possibly in the
24 future writing letters to other potential people who had -- who
25 had unclaimed funds in this county.

1 Q. Now, you said he had a business. Is he Mr. Pendergrass or
2 Mr. Earvin?

3 A. Mr. Earvin I don't think had anything to do with it. I
4 don't know what relationship he had with Mr. Pendergrass. But
5 I dealt with Mr. Pendergrass on trying to understand how the
6 system worked. And that is what I did.

7 Q. Okay.

8 THE COURT: So are you saying that Mr. Earvin had the
9 business? Or you said I don't think he had anything to do with
10 it?

11 THE WITNESS: I think it was just Mr. Pendergrass.

12 THE COURT: Had the business?

13 THE WITNESS: Yes, ma'am. And the name of the
14 business was this Attorney Recovery.

15 THE COURT: I'm sorry. What did Mr. Earvin have to
16 do with anything?

17 THE WITNESS: He introduced.

18 THE COURT: He introduced you-all?

19 THE WITNESS: To this potential client.

20 THE COURT: All right.

21 Q. (BY MR. BROWN) So after the introduction, what were your
22 dealings with Mr. Pendergrass? Did he eventually provide you
23 some checks?

24 A. He did. He provided me five or six checks that he wanted
25 me to deposit, and I did into a trust account.

1 Q. Let me stop you there. What was your understanding as to
2 why Mr. Pendergrass needed you or wanted you to deposit these
3 funds into a trust account?

4 A. I think it was to make it more legitimate when I would
5 contact -- if I were to contact people in the future that might
6 have a claim to these funds coming from an attorney I think
7 might have been the reason.

8 Q. So let me ask you: So once you deposited these funds into
9 the trust account you created, what did you do with the funds?

10 A. Well, first, I want to tell you that I called Harris
11 County, Texas -- the clerk out there and asked them about each
12 individual check to make sure they were legitimate. The
13 numbers matched. They were clear. And as far as they knew,
14 everything was fine with those checks. And so I then deposited
15 them into this trust account.

16 Q. Did Mr. Pendergrass tell you how he obtained these checks
17 or whose behalf he was working on to get these checks from
18 Harris County?

19 A. He showed me documents that it was -- the account was in
20 the name of Lee Family Trust.

21 Q. All right.

22 A. And the documents he showed me had what appeared, I think,
23 her name and the power of attorney. And it was notarized. And
24 that is how I believed that it was proper.

25 Q. All right. So did Mr. Pendergrass lead you to believe

1 that he had the authority of the Lee Family Trust to obtain
2 these checks from Harris County?

3 **A.** Yes.

4 **Q.** Now, tell us: After you deposited the checks, did you
5 have a -- to learn -- have some concerns about whether
6 Mr. Pendergrass actually had the authority to negotiate these
7 checks?

8 **A.** Yes, I had a concern.

9 **Q.** Tell us about the concerns.

10 **A.** Well, it hit me that there was a person that lived on my
11 street, a neighbor, who worked for this company, Attorney
12 Recovery. So that's quite a coincidence. So I can't remember
13 exactly what happened. But I called my friend Tom Greenfield,
14 the neighbor, and said, I was happy to tell him I was doing
15 some work for his company. And he said he didn't know anything
16 about any Georgia operations of Georgia -- of Attorney Recovery
17 except what he did. It was a collection -- commercial
18 collection work.

19 And he may have come by my office and looked at the
20 document that purported to be from Attorney Recovery. And he
21 said he doesn't know Mr. Pendergrass, never heard of him. He
22 had been there with them for 20 years. The signature was not
23 of the president, Mr. Bloom. I then --

24 THE COURT: I'm sorry. What did you say about
25 Mr. Bloom?

1 THE WITNESS: Mr. Bloom was the president of the
2 company. And so my friend, Tom Greenfield, knew the president.
3 So I called the president, Mr. Bloom, and said -- he was upset.
4 He didn't know anything about this case. He was concerned that
5 someone else was trying to collect money in his name. And he
6 had -- he said I'm going to make a claim for those funds.

7 So now I've got two people wanting the money, and I
8 just held on to it.

9 MR. BROWN: Your Honor, I could go through his whole
10 direct examination, but I want to be clear as to what the Court
11 wants to get to.

12 THE COURT: Well, I'm just trying to -- I was trying
13 to understand what was this -- is this being offered as to the
14 concerns regarding the duplicate use of Attorney Recovery
15 Systems? I'm trying to understand.

16 MR. BROWN: Okay. So we'll -- okay. I'll let you
17 tell her, but I can proffer.

18 **Q. (BY MR. BROWN)** So did it come out -- let me show you what
19 is marked as Exhibit Number 9. Just flip through that document
20 and tell me -- just take a look at it, and I'll ask you a few
21 questions.

22 **A.** (The witness complies.)

23 **Q.** So you testified earlier that as part of your dealings
24 with Mr. Pendergrass you received documents that indicate that
25 he had the authority to operate on behalf of Lee Family Trust;

1 is that right?

2 **A.** Yes.

3 **Q.** And based on your -- and he was operating under the
4 company Attorney Recovery System, Inc.?

5 **A.** Yes.

6 **Q.** And based on your discussions with your neighbor and
7 further due diligence, did you find out that that information
8 was false?

9 **A.** Yes.

10 **Q.** How did you find out that information was false?

11 **A.** Well, I called the company that I thought I was dealing
12 with, and I tracked down the attorney for the Lee Family Trust
13 and spoke to him and sent him the paperwork that purported to
14 be her signature. He said that wasn't hers. She wasn't aware
15 of any money coming out or any claim to money.

16 **Q.** All right. And so kind of going back to Exhibit
17 Number 10, which is your -- the email dated March 6, 2013, in
18 that email are you explaining to Mr. Pendergrass that you are
19 going to sever the relationship because you have concerns of
20 fraud?

21 **A.** Yes.

22 **Q.** And the money that you had -- the checks you received from
23 Mr. Pendergrass, did you return that money to Mr. Pendergrass
24 or what did you do with those funds?

25 **A.** I talked to the clerk again. And then I think I spoke to

1 an investigator with that county, and they directed me to
2 return the funds, and I did that.

3 **Q.** Okay. So do you feel like you were deceived in this
4 business dealing with Mr. Pendergrass?

5 **A.** Yes.

6 **Q.** And when you communicated this email on March 6 to Mr. --
7 this email to Mr. Pendergrass, did he respond back saying that
8 he was revoking -- that he decided to cancel the power of
9 attorney on the second page of that email?

10 **A.** Yes.

11 **Q.** Okay. Actually, if you look at Page 2 -- so
12 Mr. Pendergrass sends his email on March 1st, 2013, at 5:29.
13 And that email says, we spoke with Ms. Lee, and she decided to
14 cancel our power of attorney. See attachment. Please advise.

15 Then you respond five days later and say I'm responding to
16 you basically saying -- was he trying to get the money back
17 from you?

18 **A.** Yes.

19 **Q.** All right. So you respond back and saying you think you
20 were deceived, there was fraud, and you did not return the
21 money to Mr. Pendergrass?

22 **A.** Correct.

23 MR. BROWN: All right. So that's all I have, Judge.

24 Do you have any questions of the witness?

25 THE COURT: No. I just want to allow -- not at this

1 moment. I just wanted to allow Ms. Durrett to question him.

2 MS. DURRETT: Thank you, Your Honor.

3 VOIR DIRE EXAMINATION

4 BY MS. DURRETT:

5 Q. Good morning, Mr. Cohen. How are you doing?

6 A. Peachy.

7 Q. I'm Saraliene Durrett. I represent Mr. Pendergrass in
8 this case. So I just want to ask you a few questions.

9 So you had a landlord/tenant business; is that right?

10 A. I'm doing that now. I did it 50 years ago. I just got
11 back in it.

12 Q. Okay. So at the time that you met -- had these meetings,
13 what year was that that you had these meetings?

14 A. I believe 2013.

15 Q. Okay. What kind of law were you doing then?

16 A. I was helping collection agencies with claims by the
17 government for violations of the FDCPA.

18 Q. And Mr. Earvin, he was just a businessman?

19 A. Yeah.

20 Q. And he had some FDCPA violations or something that he was
21 trying to work through?

22 A. Yes, ma'am.

23 Q. Okay. And that was a retained client of yours? I don't
24 need to know the business. But he was coming to you for legal
25 advice?

1 **A.** Right. It was just to help him with a charge by the
2 people that prosecute FDCPA claims for collection violations.

3 **Q.** Did Mr. Pendergrass come with Mr. Earvin to all of your
4 meetings with Mr. Earvin?

5 **A.** No. No. He brought him once and introduced me. I tried
6 to understand how this whole system worked, and it sounded like
7 a legitimate business --

8 **Q.** And --

9 **A.** -- enterprise.

10 **Q.** Can you just describe Mr. Pendergrass? Was there anything
11 that stuck out about his appearance or anything?

12 **A.** No. He was a very nice man.

13 **Q.** What did he look like?

14 **A.** He is Black, and that's almost all I remember. It was
15 about almost nine years ago.

16 **Q.** He was a Black guy?

17 **A.** Nice Black guy.

18 **Q.** Nice Black guy. Okay. Great.

19 So I want to talk with you about the agreement that you
20 came to then with Mr. Pendergrass. So you -- and did you just
21 have the one face-to-face meeting with him?

22 **A.** I don't recall.

23 **Q.** Okay. But at some point, did you come to an agreement
24 during that meeting that you were going to help him or was it
25 at a later time?

1 **A.** I don't recall.

2 **Q.** Okay. Let me ask you this: Do you have a file related to
3 this?

4 **A.** No. I moved -- I moved, and there is a lot of things
5 missing.

6 **Q.** Okay. So the answer may be the same to all of these
7 questions then.

8 Do you have copies of any notes that you took during the
9 meeting?

10 **A.** No.

11 **Q.** Do you have copies of any letters you wrote to
12 Mr. Pendergrass?

13 **A.** Only the copy of the email.

14 **Q.** Do you have any copies of any letters Mr. Pendergrass
15 wrote to you?

16 **A.** Only the response that I saw, the document.

17 **Q.** Okay. That is the only email or letter or anything?

18 **A.** That I recall. I don't know if I have many or few or
19 none.

20 **Q.** Do you have any time sheets related to the time you would
21 have spent on this case?

22 **A.** No.

23 **Q.** Okay. Do you have an engagement agreement that explains
24 the responsibilities of the lawyer and client in this
25 relationship?

1 **A.** I referred -- there was one -- a reference to it in the
2 email, but I no longer have those documents.

3 **Q.** So you don't have a document that was signed by -- I mean,
4 as attorneys, sometimes we make agreements with clients, and we
5 sign the document, and the client also signs the document.

6 **A.** I agree.

7 **Q.** Was that your practice?

8 **A.** Yes. But I can't tell you if I had one in this case or
9 not. It was pretty loose.

10 **Q.** Pretty loose?

11 **A.** It was pretty loose. The agreement was pretty loose.

12 **Q.** So what was your understanding of how you were going to
13 get paid as a result of this agreement?

14 **A.** This is just from memory. I believe I was going to
15 receive \$2500 for handling the checks and disbursing them and
16 writing to the people and assisting any way I could.

17 Then for the future, the idea was that if there was data
18 of other people that had money in this particular county that
19 was unclaimed I would be the person writing them to say, hey,
20 you've got some money here and here is how you can try to get
21 it.

22 **Q.** Okay. So you were going to get \$500 per check or \$2500
23 per month?

24 **A.** \$2500 total for handling. That is just my recollection.

25 **Q.** Okay. And what did the \$2500 cover?

- 1 **A.** It covered all the time I was spending dealing with
2 Mr. Pendergrass, the depositing and negotiating of the checks,
3 and the disbursement -- eventually disbursement.
- 4 **Q.** Okay. Have you ever met a man named Terrell McQueen?
- 5 **A.** Not that I recall.
- 6 **Q.** Okay. Have you ever met a man named Kwame Thomas
7 (phonetic)?
- 8 **A.** No.
- 9 **Q.** Did you have a secretary at the time that you had these
10 meetings?
- 11 **A.** No.
- 12 **Q.** So there was no one else besides you and Mr. Earvin and
13 Mr. Pendergrass present?
- 14 **A.** Correct.
- 15 **Q.** Do you have any voice mails or anything from
16 Mr. Pendergrass that you have saved?
- 17 **A.** No.
- 18 **Q.** Okay. And there is no written fee agreement or written
19 engagement letter?
- 20 **A.** There might have been one. But I certainly don't have it
21 any more.
- 22 **Q.** Now, you agreed to accept \$168,000 in trust fund money
23 basically to put into your trust account without any sort of
24 written agreement in place?
- 25 **A.** No. There may be a written agreement in place. I just

1 cannot provide it to you.

2 **Q.** Okay. And then when you -- I know you talked about how
3 you were trying to return the money and you were contacting
4 another attorney about it and then you contacted Harris County.

5 You were trying to get some money from that too; right?

6 **A.** Well, I mean, I would have liked to have recovered some
7 money for something that I have done. But it wasn't a -- I'm
8 really grateful that I returned the funds back to where it came
9 from because I think I would have been looked at as liable for
10 these funds.

11 **Q.** Okay. And at the time that you were talking about this
12 business, Attorney Recovery -- what is it called? Attorney
13 Recovery Service?

14 **A.** Yes, ma'am.

15 **Q.** Did anyone provide any documents to you to show you
16 anything about that company?

17 **A.** Well, I looked at the Secretary of State because I was
18 trying to determine this Bloom relationship. And then the part
19 I'm grateful about is that my neighbor on the same street
20 worked for a company with the same name.

21 And that when he told me he didn't know the signature of
22 Bloom and he didn't know Mr. Pendergrass, that was a red flag
23 for me and I started investigating. Because I did not want to
24 turn those monies over unless I knew they were legitimate and
25 going to the right place. And I didn't care about the fee.

1 Q. So when you had that meeting with Mr. Pendergrass and he
2 said, my business is Attorney Recovery System, did you at that
3 moment think, oh, that is my neighbor's business?

4 A. I don't know when it hit me. I just -- he was on my
5 street. I have talked to him many times. I knew he was in
6 commercial collection. I don't know what made me think that
7 sounds really familiar. It just didn't happen immediately.

8 Q. Okay. I'm going to show you what has been marked as
9 Defendant's Exhibit A and ask if anyone ever showed you this
10 document.

11 A. I don't think I have ever seen it. I don't know what it
12 is.

13 Q. Okay. Well, did anyone ever tell you that a person named
14 Terrell McQueen had either made or applied for a business
15 license for Attorney Recovery System?

16 A. No.

17 Q. Okay. No one ever talked to you about that?

18 A. I don't recall it.

19 THE COURT: Yes?

20 MR. BROWN: Your Honor, I don't -- it is not an
21 objection. But, Your Honor, she's getting into an area that
22 she wants to get in front of the jury. I don't know what the
23 Court's concerns were about this testimony.

24 The Government argued and I think you found in your
25 order that it is intrinsic. I would just proffer to the Court

1 Mr. McQueen will testify about his dealings with
2 Mr. Pendergrass with this company, Attorney Recovery Systems,
3 and working to try to get these funds fraudulently.

4 So I don't want to waste the jury's time because they
5 are waiting on us, Your Honor.

6 THE COURT: I agree.

7 MR. BROWN: I want to make sure you are satisfied.

8 MS. DURRETT: I agree, Your Honor. But the problem
9 is we have a lot of evidence that it is Terrell McQueen's
10 business, not Mr. Pendergrass's business. And so this idea
11 that he met with a Black man eight years ago and talked about
12 this -- I don't think it adds value here.

13 THE COURT: Is there anything else that you need to
14 examine him about?

15 MS. DURRETT: One moment. Oh, yeah, I do want to
16 examine you about the name Gene Bloom.

17 **Q. (BY MS. DURRETT)** Have you ever met anyone named Gene
18 Bloom? You have a neighbor; right? Gene Bloom?

19 **A.** Gene Bloom is out of state. I have never met him in
20 person.

21 **Q.** Okay. What is your neighbor's name?

22 **A.** Tom Greenfield.

23 **Q.** Tom Greenfield. How do you know Gene Bloom is out of
24 state?

25 **A.** Well, I got that information from Mr. Greenfield who

1 worked for that company for over 20 years who saw the signature
2 of Gene Bloom and told me that wasn't Gene Bloom's signature.
3 He was unaware of any actions in Georgia like this for his
4 company. And I went from there.

5 **Q.** And you never met -- did you ever receive a phone call
6 from Gene Bloom?

7 **A.** Oh, yes.

8 **Q.** What was that phone call about?

9 **A.** About what was occurring. That someone using the name or
10 similar name to his company had me working to collect money on
11 taxes from -- you know, unclaimed taxes from Texas.

12 **Q.** And did you ever see any documents to Harris County that
13 had Gene Bloom's name on them that were letters written to
14 Harris County?

15 **A.** Well, I can't recall exactly. But I have seen the
16 exhibits that have Gene Bloom's signature on it -- purportedly
17 to be his signature.

18 **Q.** When did you see those exhibits?

19 **A.** Well, I would like -- I don't want to guess.

20 **Q.** Please don't. So when --

21 **A.** I believe that I saw them when I met with Mr. Pendergrass
22 because I wanted to see the documents he was using as authority
23 to take these funds from Harris County.

24 **Q.** And did you see them again when you talked to the
25 Government?

1 **A.** I saw them now for sure.

2 **Q.** Okay.

3 THE COURT: Can you wrap up?

4 MS. DURRETT: Yes.

5 **Q.** **(BY MS. DURRETT)** Have you ever heard of a business
6 called -- let me make sure I know the right name -- Lionheart
7 Layer & Associates (phonetic)?

8 **A.** Not that I recall.

9 **Q.** Did you ever do any work for that business?

10 **A.** I don't recall any name like that.

11 MS. DURRETT: That's all I have. Thank you.

12 MR. BROWN: Nothing further from the Government,
13 Judge. Just argument.

14 THE COURT: You can be excused for a moment. If you
15 wouldn't mind stepping outside. Thank you.

16 **(The witness exited the courtroom.)**

17 THE COURT: I'm going to be a minute here.

18 **(There was a brief pause in the proceedings.)**

19 THE COURT: I'm just going to put out what my concern
20 about this witness' testimony is. It is really a pretty strong
21 concern.

22 As far as I can recall, there were -- while asset --
23 Attorney Recovery System is mentioned in the -- as background
24 information in Paragraph 5 of the indictment, the whole sort of
25 part of the testimony of this witness that deals with -- that

1 he had -- that Mr. Pendergrass had made fraudulent
2 representations about the Attorney Recovery System and using
3 this vehicle that was his neighbor's is not -- is not, in fact,
4 the thrust of the indictment.

5 And it seems to me while there are things that he
6 says that are -- deals with that are relevant this whole
7 portion of it is a whole kind of other branch.

8 And I'm afraid -- I'm concerned that it is confusing.
9 The testimony on the other dimensions is cumulative and, of
10 course, about a different entity and I'm not -- cumulative and
11 not necessary.

12 You've got strong proof, as it is, in this case. But
13 I mean, this is sort of like -- at this point it seems to me
14 we're throwing something -- part of his testimony deals with
15 this whole, you know, alleged allegation of fraudulent use of
16 the -- use of the Attorney Recovery System. And it is just
17 sort of like throwing almost like mud at the wall or paint -- I
18 know that is the actual expression. And it will take time.

19 And I don't think it is -- I think it is confusing
20 and cumulative and, frankly, not necessary to making out the
21 Government's case.

22 MR. BROWN: May I respond, Judge?

23 THE COURT: Yes. That is why I started first.

24 MR. BROWN: So I'll respond first with the law,
25 Judge, as you well read the law you cited in your order. But

1 I'll just cite you another case. It is *United States vs.*
2 *United States Infrastructure*, 576 F.3d 1195. It is an Eleventh
3 Circuit case, 2009.

4 It states that exclusion of intrinsic evidence is an
5 extraordinary remedy that must be used sparingly. The Court
6 has decided in your order that this evidence is not extrinsic.
7 It is intrinsic. It is during the same time frame, the same
8 parties, the same conduct.

9 THE COURT: Right. But I did not realize -- when I
10 made that decision, I did not realize that a portion of the
11 testimony was going to involve Attorney -- the question of was
12 there fraudulent use of the Attorney Recovery System. That was
13 absolutely not clear. I do not view that as intrinsic.

14 MR. BROWN: Okay. Can I continue, Judge, briefly?

15 THE COURT: Yes.

16 MR. BROWN: I'm not going to belabor the point. I'm
17 not going to argue with Your Honor.

18 THE COURT: That's fine.

19 MR. BROWN: I'm not here to do that, Judge. But I
20 think Your Honor is getting caught up on the name. And the
21 testimony will be from our next witness, Mr. McQueen, that they
22 used various names during this scheme.

23 So the name for the five counts in the indictment was
24 just one of many names they used during the same time frame to
25 do the same conduct. It is not different conduct. So I think

1 that Your Honor is thinking, well, it is a different name,
2 Government, so let's not even get into it.

3 But we're linking parties' conduct, similar letters.
4 It is everything the same time. It is not cumulative because
5 we don't have a witness who will testify that they met Allen
6 Pendergrass, that they exchanged emails with Allen Pendergrass
7 about the very same conduct this -- it is a scheme, Judge.

8 So I think it is a mail fraud scheme. You said it is
9 background. It is not background. What the Government alleges
10 here is a part of the scheme. And the Government will present
11 evidence on that scheme.

12 So that is why we allege in our indictment not to
13 dirty up the defendant but to say it is a scheme, so that is
14 why we included that. And this is -- conspiracy, like themes,
15 allows the Government to offer evidence that is intrinsic to
16 the scheme.

17 And the case law is very clear, Your Honor. It says
18 your decision to exclude this evidence, which is intrinsic, is
19 an extraordinary remedy the Court should not use unless it
20 is -- and there is no argument -- at least compelling argument
21 this evidence is more prejudicial than probative. It is very
22 probative.

23 So the only witness we will have next is Mr. McQueen,
24 who is a co-defendant, who will testify about this, if the
25 Court allows his testimony of Lee Family Trust. And he will

1 testify, Your Honor, that he was working with Mr. Pendergrass
2 at the same time he was using Asset Financial Recovery to do
3 these frauds.

4 So I just didn't want the Court to believe that the
5 name somehow makes it a different scheme. It is the same
6 scheme, Your Honor, the same time frame, the same parties, the
7 same exact conduct. This is not different, Judge.

8 So I can provide the case to you that basically says
9 your decision to exclude intrinsic evidence is an extraordinary
10 remedy.

11 THE COURT: I am perfectly aware of the general rule.
12 But I also know that a court is absolutely authorized if it
13 thinks that the evidence will be confusing or cumulative. So
14 that's --

15 MR. BROWN: Anything else you want to hear from me?
16 I'm trying to persuade you, Your Honor.

17 THE COURT: I understand.

18 MR. BROWN: I think it is important, but I don't want
19 to argue with you. I really don't.

20 THE COURT: That's fine.

21 MR. BROWN: If there is additional evidence that I
22 could provide to you --

23 THE COURT: Well, it may have been easier if you had,
24 frankly, put Mr. McQueen up first. But --

25 MR. BROWN: Well, I was trying to -- but I couldn't

1 do that because you did not want information on the Lee Family
2 Trust to come in until I think you wanted to talk to Mr. Cohen
3 first.

4 THE COURT: Right. But I didn't -- frankly, you have
5 not made a point of saying, oh, they are simply -- they are
6 also fraudulently using these different companies. I mean,
7 that is -- that is his concern when he starts here. That is
8 the thrust of his testimony is about the fraudulent use of
9 Attorney Recovery System. Then we get at the tail end the
10 actual piece that is more relevant.

11 MR. BROWN: Right. I understand. I just want to say
12 one thing, Your Honor. Government's Exhibit Number 12 is
13 already in evidence. It has been admitted. And it is a
14 document. If you look at that, it is the use of Attorney
15 Recovery Systems by the same Gene Bloom we heard Mr. Cohen
16 testify about. This is already in evidence.

17 And what the Court -- what the Government wants to
18 argue is it is not cumulative testimony by Mr. Cohen talking
19 about the meeting with Mr. Pendergrass using this name. And
20 Mr. McQueen is going to come into this court. Your Honor, I'll
21 proffer his testimony that yes, he -- he and Mr. Pendergrass
22 fraudulently used this name to try to get money from Holland &
23 Knight, to try to get money from the Lee Family Trust.

24 And defense counsel has exhibits on this very same
25 evidence. So I will just finish by concluding that it is

1 intrinsic. And we would ask the Court to allow Mr. Cohen's
2 testimony as well as Mr. McQueen's testimony on this issue,
3 Your Honor.

4 Thank you.

5 THE COURT: All right.

6 MS. DURRETT: Your Honor, I'm not going to talk you
7 out of a decision I think is headed my way. But I do want to
8 talk to you about something else.

9 THE COURT: Well, I do have an open mind. So let me
10 just say: I absolutely hear what Mr. Brown has said, and I'm
11 glad he pointed me out to Exhibit 12 as well.

12 MS. DURRETT: Well, I would like to talk to you a
13 little bit then about Holland & Knight. Because the reason we
14 have exhibits related to Holland & Knight -- and that is the --
15 something that was done on Attorney Recovery Systems. We have
16 those exhibits, and we intend to call an investigator from
17 SunTrust and our own investigator who will show that
18 Mr. McQueen used that name Gene Bloom on the Attorney Recovery
19 System's letterhead and sent -- not only sent Mr. -- or drafted
20 a letter to Mr. Pendergrass to suggest that Holland & Knight
21 had hired that firm but also opened a bank account to deposit
22 the Holland & Knight check -- his own personal bank account,
23 used that money to transfer to another bank account that he
24 opened, and then SunTrust started an investigation on him.
25 They contacted him. He refused to talk to them.

1 They reported it to Clayton County Police. And there is a full
2 police report written by the SunTrust investigator.

3 Mr. McQueen had to go to Clayton County, and he had to pay
4 restitution for that. And that came out of his own personal
5 bank account.

6 So Mr. McQueen did the Holland & Knight thing. He
7 did it. He paid the restitution for it. He was written up in
8 a police report about it. He opened the bank accounts. He
9 transferred the money.

10 So, you know, it is his scheme. And I think that the
11 evidence we heard today bolsters that, that this is the guy who
12 is out doing that kind of thing under Attorney Recovery
13 Systems.

14 And so we think not only should Lee Family Trust be
15 out but also Holland & Knight because he did it. I mean, it is
16 not Mr. Pendergrass. And like I said, we have got the SunTrust
17 investigator and our own investigator who has the information
18 about how he was -- he avoided prosecution in Clayton County
19 strangely by paying restitution. But he had a police report
20 and a court case.

21 THE COURT: Well, I'm sure that the Government here
22 would probably still allege that, well, they worked together
23 about this and that is why they want this in. And that in some
24 ways makes it more relevant that he has this witness.

25 MS. DURRETT: But I don't -- Your Honor, I think what

1 we can show is that Mr. McQueen did the entirety of the Holland
2 & Knight issue.

3 THE COURT: Then it becomes relevant. You know, let
4 me just say: If you want -- I'm going to actually allow it now
5 when I think about -- when I am hearing all of that. If you
6 want -- you know, at some point you want me to say -- to give
7 an instruction about that the charge here is about the -- if
8 you want some sort of limiting instruction, you can propose it
9 and I will absolutely consider giving it --

10 MS. DURRETT: Okay.

11 THE COURT: -- and likely will give it. But it has
12 to be a reasonable one.

13 And -- and if I think it is confusing as he is
14 testifying, I am going to tell the jury that the issue is --
15 the primary issue here basically relates to the similarity of
16 the funds -- of the funds, not the question of the use of the
17 funds. Because that is what it is.

18 And, you know, I just was completely stunned when we
19 spent -- ended up spending time on did he have authority to do
20 this on the behalf of Attorney Recovery System because that
21 really has not been the thrust of the evidence.

22 I'm sorry. I mean, I understand what you are saying
23 here with what you are planning to do. I would have preferred
24 there be, in fact, a foundation for him getting into this if we
25 were going to do this.

1 But you are entitled to put on -- I'm not somebody
2 who will tell you -- and there are judges, I know, who will
3 tell you you can't go first. I sat in a 1983 trial with one of
4 my former colleagues who just basically -- and the police
5 officers were called first by the plaintiff in the 1983 case.
6 And the judge, one of my former colleagues, said, you can't do
7 that, and made them completely reorder their witnesses.

8 If I thought this was that extreme, I would do that.
9 But -- but if you feel at some point that we need though --
10 counsel, if you think that I need to stop and give a limiting
11 instruction of some sort, you are absolutely -- I am -- I will
12 be open to that.

13 MS. DURRETT: Your Honor, we have proposed a limiting
14 instruction. It is in our instructions regarding the intrinsic
15 acts, and we would like the Court to give that.

16 THE COURT: Now?

17 MS. DURRETT: Yeah. Before the evidence.

18 THE COURT: Where is it?

19 MS. DURRETT: I'll have to find it.

20 LAW CLERK BORING: I have it.

21 THE COURT: You have it?

22 MS. DURRETT: And I don't know if the Court has
23 considered when they are going to give the stipulation. We
24 have looked at that language. We approve that language. So we
25 think all of --

1 THE COURT: Do you want to tell us about what --
2 Mr. Brown, about the Government's view about the limiting
3 instruction?

4 MR. BROWN: Yes. My view hasn't changed.

5 THE COURT: I mean, not the limiting instruction.
6 The stipulation.

7 MR. BROWN: The stipulation. My view hasn't changed,
8 Your Honor. I think that stipulation is improper. What the
9 defense has asked you to do is turn into evidence what the
10 Government argued in their brief three years ago.

11 And the main point I want the Judge to understand is
12 it is not inconsistent. So the whole thrust of her argument is
13 the reason why you need to bring this portion of the
14 Government's brief in, Doc. 73, 3rd Page, 1st paragraph, is
15 because it is inconsistent with the position the Government is
16 taking now. And it is not.

17 And you'll hear from Mr. McQueen next who will
18 testify I signed, I sent them. So nothing the Government is
19 saying is inconsistent.

20 So why does a court or defense counsel need to bring
21 in a line from the Government's brief when they are arguing
22 404(b)? It is not evidence. If you look closely at the
23 Court -- the defendant's citations, Your Honor, it is nothing
24 to do with this case.

25 It involves the Government taking inconsistent

1 positions in different trials involving different defendants
2 and not allowing -- there is some argument the Government
3 should not be able to argue in one case or one defendant he is
4 a minor player and then try another defendant and say that same
5 person is a major player.

6 But that is not what is happening here. The
7 Government is not taking an inconsistent position. Therefore
8 Your Honor does not even need to consider the stipulation. And
9 I would ask the Court to -- once you hear Mr. McQueen's
10 testimony, you will see very clearly it is not inconsistent.

11 THE COURT: We'll take it up more at lunchtime.

12 MS. DURRETT: Could I just say one more thing about
13 it?

14 THE COURT: Yes.

15 MS. DURRETT: And the whole reason that we asked for
16 it is because it is the basis of their request to get these
17 five additional acts in. It is their basis when they say we
18 have weak evidence against Mr. Pendergrass. His intent is an
19 issue. And we don't have enough evidence because Mr. McQueen
20 signed and sent all of the forged documents and they said not
21 Mr. Pendergrass. So that is the basis of their argument for
22 getting these other things in.

23 THE COURT: I understand. All right. I'm assuming
24 you would want to do this in your case anyway? The
25 stipulation -- offer the stipulation?

1 MS. DURRETT: Well, I'm happy to have you offer it
2 right now.

3 THE COURT: Well, I think it is his case. So you
4 can't do that.

5 MS. DURRETT: Thank you, Your Honor. That is fine.

6 THE COURT: Is there something you wanted on the
7 limiting instruction?

8 **(A discussion ensued off the record.)**

9 THE COURT: I think the instruction is fine, and I'll
10 give it -- on the intrinsic act instruction.

11 MS. DURRETT: Thank you, Your Honor.

12 THE COURT: Okay.

13 MS. DURRETT: No. It is the one that I proposed in
14 my filed jury instructions.

15 Is that the one you have?

16 THE COURT: Yes.

17 MS. DURRETT: Not an email?

18 THE COURT: Right.

19 MS. DURRETT: Document 229 at 14.

20 THE COURT: It think it could be tailored you have
21 just heard or you will hear because --

22 MS. DURRETT: Thank you, Your Honor.

23 THE COURT: I mean, if you are wanting me to give the
24 instruction during the course of the trial, I want to do it --
25 just change the verb tense.

1 MS. DURRETT: Perfect. Thank you, Your Honor.

2 THE COURT: All right.

3 All right. Are we ready for the jury to come back?

4 MR. BROWN: Yes. I'm ready, Judge.

5 Could we get Michael Cohen?

6 THE COURT: But what I was saying really was,
7 Ms. Durrett, if you have -- if you think something else
8 specifically needs correct -- a limiting instruction during the
9 course of this testimony, you may offer that.

10 MS. DURRETT: Thank you, Your Honor.

11 THE COURT: Okay.

12 COURTROOM DEPUTY CLERK: We don't need to re-swear
13 him, do we?

14 THE COURT: I think we want to do it in front of the
15 jury.

16 COURTROOM DEPUTY CLERK: We're going to re-swear.

17 MR. BROWN: I was going to wait until you bring the
18 jury up.

19 THE COURT: No. Go ahead and bring him up now.

20 COURTROOM DEPUTY CLERK: They are coming in now.
21 Here we go.

22 **(The jury entered the courtroom at 10:36 A.M.)**

23 MR. BROWN: Your Honor, the Government calls Michael
24 Cohen to the stand.

25 THE COURT: Members of the jury, before Mr. Cohen

1 begins, let me just say I regret that we have taken so much
2 time this morning dealing with a matter that we just sort of --
3 for the trial. And, you know, there is a lot of moving pieces
4 in the trial and we try to figure out what -- what testimony
5 can come in properly and what cannot. And sometimes it takes
6 longer than anticipated. But my apologies to you.

7 Go ahead, Mr. Cohen.

8 COURTROOM DEPUTY CLERK: If you would, please raise
9 your right hand.

10 **(Witness sworn)**

11 COURTROOM DEPUTY CLERK: Thank you. Please have a
12 seat.

13 Loudly and clearly state your name and spell your
14 name for the record, please.

15 THE WITNESS: Michael Cohen, C-O-H-E-N.

16 Whereupon,

17 MICHAEL COHEN,

18 after having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 **Q.** Good morning, Mr. Cohen.

22 **A.** Hello.

23 **Q.** How are you employed, sir?

24 **A.** I am a self-employed attorney in Atlanta.

25 **Q.** And how long have you been an attorney in Atlanta

1 approximately?

2 **A.** 45 years.

3 **Q.** And what is the current nature of your practice? What
4 kind of law do you practice?

5 **A.** Landlord/tenant. I represent landlords and tenants.

6 **Q.** Now, in 2013, what kind of law were you practicing then?

7 **A.** It was a general practice. But I was helping some
8 collection agencies that was having -- they were having
9 complaints against the agency. And I would help them with the
10 complaints that the government had.

11 **Q.** All right. In 2013, did you have an occasion to meet with
12 an Allen Pendergrass?

13 **A.** I did.

14 **Q.** Can you explain how you met with Allen Pendergrass?

15 **A.** Well, one of my clients that I was helping with the
16 collection -- debt collection practice introduced me to
17 Mr. Pendergrass as a person that needed some help with some tax
18 collections.

19 **Q.** All right. And did you actually have a meeting with or
20 who was the person that introduced you to Mr. Pendergrass?

21 **A.** His name was Mr. Earvin.

22 **Q.** Mr. Earvin?

23 **A.** Earvin.

24 **Q.** And did you have a meeting with Mr. Earvin and Mr. Allen
25 Pendergrass?

1 **A.** Yes.

2 **Q.** Where did that meeting take place?

3 **A.** At my office on West Wieuca in Atlanta.

4 **Q.** And can you give an approximate year when this meeting
5 occurred?

6 **A.** 2013.

7 **Q.** And during that meeting, what was the nature of how you
8 were going to assist Mr. Pendergrass and/or Mr. Earvin?

9 **A.** Well, Mr. Pendergrass complained that he had a way to mine
10 data or extract information from county records of taxes.

11 THE COURT: From county records?

12 THE WITNESS: County. Of county taxes that might be
13 unclaimed. They were unclaimed taxes. And the idea was that
14 they would notify the person that there is some unclaimed taxes
15 for you and this is how you can get it.

16 **Q.** **(BY MR. BROWN)** Okay. Now, at that time, were you
17 familiar with that kind of business?

18 **A.** No.

19 **Q.** During the meeting, did Mr. Pendergrass ask you to perform
20 some acts related to checks that he had?

21 **A.** Yes.

22 **Q.** Can you explain what he asked you to do and the nature of
23 the checks?

24 **A.** There were checks -- five or six checks from Harris
25 County, Texas, that he wanted me to deposit. I was going to

1 deposit them into a trust account. Then I would be the
2 disbursing agent for his company.

3 **Q.** Now, what was your understanding as to how Mr. Pendergrass
4 obtained these five to six checks?

5 **A.** He showed me documents that were signed by an individual
6 that was notarized that had to do with taxes and that person's
7 name or that entity's name. And they looked legitimate to me.

8 **Q.** All right. Now, do you recall the name of the trust that
9 Mr. Pendergrass obtained these checks related to?

10 **A.** I think it was Lee Family Trust. I also called the clerk
11 out there to make sure the checks were legitimate named --
12 properly named and numbered.

13 **Q.** So can you recall the approximate value -- the combined
14 value of these five to six checks?

15 **A.** \$160,000. I really don't recall. There's some notes in
16 here. But I don't recall the total. It was a lot of money.

17 **Q.** Okay. And what was your role going to be or how were you
18 going to be compensated for your work related to these checks?

19 **A.** Well, I was going to handle the checks, deposit the
20 checks, disburse the checks, communicate with anybody that was
21 supposed to get them. And in the future, the concept was that
22 I would write to individuals who might have money -- unclaimed
23 money in the county. And I would be the person that would
24 write the letter, and that is how I was going to serve this
25 purpose.

1 Q. So is that what Mr. Pendergrass told you? That you guys
2 would maybe form a business to recover these unclaimed funds?

3 A. Well, I don't know what role I would have as far as
4 joining a business. I would be the attorney that would be the
5 face of the letter going out on the letterhead to legitimize
6 the operation.

7 If there were legitimate funds that were unclaimed and you
8 have a lawyer write, there is a better chance that someone
9 might open it and look at it. That is the way I took it.

10 Q. All right. So you testified that you did some due
11 diligence and you called Harris County to verify that the
12 checks you received from Mr. Pendergrass were, in fact, issued
13 by Harris County, Texas?

14 A. Yes.

15 Q. And did they verify the checks were legitimate checks?

16 A. Yes.

17 Q. What was your understanding from Mr. Pendergrass as to how
18 he obtained these checks from Harris County, Texas?

19 A. Well, he showed me some form letters that he used to
20 obtain the funds with -- I believe there was a power of
21 attorney and a signature by Ms. Lee or somebody -- the trustee.
22 And those were the documents he said that were used to obtain
23 the funds.

24 Q. Now, do you recall the name of the company in which
25 Mr. Pendergrass was operating under at the time he was asking

1 you to negotiate these checks?

2 **A.** Attorney Recovery. It was either Attorney Recovery
3 Systems or Attorney Recovery System. I don't recall the exact
4 name.

5 **Q.** Okay. I want to show you what has been marked as Exhibit
6 Number 9. Flip through and let me know if you -- I want to ask
7 you a few questions about it.

8 **A.** (The witness complies.)

9 Yes, sir.

10 **Q.** Now, do you have a recollection of the actual name of the
11 company that Mr. Pendergrass was operating under at this time?

12 **A.** I thought -- at this time?

13 **Q.** Yeah, at the time that --

14 **A.** I thought it was this Attorney Recovery.

15 **Q.** Okay. And what was the nature of the Lee Family Trust?
16 How was the Lee Family Trust involved with these checks?

17 **A.** The Lee Family Trust supposedly are the ones that had
18 money that was unclaimed in Harris County, Texas.

19 **Q.** Did you do any additional due diligence at this time to
20 verify that Mr. Pendergrass had the authority to claim these
21 funds under the Lee Family Trust?

22 **A.** Other than the review of the documents?

23 **Q.** Right.

24 **A.** Well, I became concerned about it. So I did some further
25 inquiry. I remember --

1 Q. Let me stop you. You said you became concerned.

2 Why did you become concerned?

3 A. Well, luckily, there was a person that I knew that lived
4 on my street that worked for Attorney Recovery. And I don't
5 remember how -- I either called him or he came by and said I
6 was so happy to be doing -- working for his company. And he
7 said, what work and what company? And then we discussed the
8 documents.

9 And he said when he looked at it that is not the name --
10 that is not the signature of the president and these documents
11 don't look real to him.

12 Q. All right. So once you talked to your neighbor who
13 basically said the documents given to you by Mr. Pendergrass
14 did not look real, what did you do?

15 A. I called the president of the company, Mr. Gene Bloom.

16 Q. And did you discuss with Mr. Bloom whether these documents
17 were, in fact, legitimate?

18 A. I did. I scanned them to him, and he affirmed that they
19 were not his signature, that it was not -- they were not
20 authorized. And he was mad.

21 Q. So with this knowledge, did you -- did you have the checks
22 that Mr. Pendergrass provided to you?

23 A. They were already deposited. They were sitting in the
24 bank in the trust account.

25 Q. So what did you do with those funds when you had these

1 concerns?

2 **A.** I was in communication with the sheriff's department or
3 investigators in Harris County, Texas. They confirmed -- they
4 told me to return the funds back to Harris County, and I did.

5 **Q.** At some point, did Mr. Pendergrass try to obtain these
6 funds back from you?

7 **A.** Yes.

8 **Q.** And how did he try to obtain these funds from you?

9 **A.** From what I recall, he asked for them. He wanted the
10 money.

11 **Q.** You testified you met with Mr. Pendergrass, I think you
12 said, at least one time.

13 Do you recall how many times you met with Allen
14 Pendergrass?

15 **A.** No, I don't recall.

16 **Q.** Well, this is about nine years ago from today?

17 **A.** Yes.

18 **Q.** All right. So I have trouble remembering two weeks ago.
19 Let alone nine years.

20 **A.** How about this morning?

21 **Q.** Right.

22 So at least one meeting; is that fair?

23 **A.** Oh, yes.

24 **Q.** In your office?

25 **A.** Yes.

1 Q. So sitting here today, do you recall what Allen
2 Pendergrass looked like from that meeting?

3 A. No. I mean, if there were five people in a line, I might
4 be able to say that was him. But I really don't recall.

5 Q. What do you recall about Allen Pendergrass's appearance?

6 A. He was a Black male. He was introduced to me as Allen
7 Pendergrass. We shook hands. Hi, I'm Allen. And there was
8 nothing distinguishing. He was just very pleasant.

9 Q. Do you recall anything about his height? Was he tall?
10 Was he short? Was he your height? Any recollection?

11 A. I really don't recall. I remember he was sitting in my
12 office, so he sat part of the time. And I really can't
13 remember.

14 Q. Okay. That is fair.

15 Did there come a point that you had email communications
16 with Allen Pendergrass about these 160-some-thousand dollars
17 that you had in your account?

18 A. Yes.

19 Q. So I want to show you what has been marked as Government's
20 Exhibit Number 10 and ask you to take a look at it.

21 A. (The witness complies.)

22 Okay.

23 Q. Now, do you recognize what has been marked as Government's
24 Exhibit Number 10?

25 A. Yes. That is an email from me dated March 6, 2013, to

1 Allen Pendergrass and E. Earvin.

2 **Q.** Now, you testified earlier about a meeting you had with
3 Mr. Pendergrass and a person named E. Earvin?

4 **A.** Correct.

5 **Q.** Does that email of E. Earvin -- is that the associate or
6 person that you were speaking of that you met with with
7 Mr. Pendergrass?

8 **A.** Yes.

9 **Q.** And you had prior dealings with Mr. E. Earvin; is that
10 correct?

11 **A.** I represented him in a matter -- a claim by the government
12 on some collection work that he was doing.

13 **Q.** All right. And what was Mr. E. Earvin's relationship to
14 the business deal you had with Mr. Pendergrass?

15 **A.** I'm not sure. He introduced me. Everything else was an
16 assumption how they were connected.

17 **Q.** Did you have any additional conversations with E. Earvin
18 about getting this money back to you -- getting this money back
19 to Mr. Pendergrass or Mr. Earvin?

20 **A.** Yes.

21 **Q.** All right. Did you return the funds?

22 **A.** Not to him. Not to Mr. Pendergrass.

23 **Q.** Why not?

24 **A.** Because there was something that wasn't right about it.

25 If I gave the money to the wrong people, eventually someone was

1 going to want to know what I did with that money.

2 **Q.** All right. So I want to ask you to flip to the second
3 page of Exhibit Number 10.

4 Is that an email to you from Allen Pendergrass?

5 **A.** Yes, sir.

6 **Q.** And at that point in time -- what date is that email?

7 **A.** March 1.

8 **Q.** During that point in time, was Mr. Pendergrass trying to
9 get the money back from you?

10 **A.** Yes.

11 **Q.** And does your email on March 6 respond to
12 Mr. Pendergrass's email?

13 **A.** Yes.

14 **Q.** Do these emails appear to be true and accurate copies of
15 email communications you had with Allen Pendergrass in March of
16 2013?

17 **A.** Yes.

18 **Q.** Have there been any changes, alterations, or deletions
19 besides marking on the bottom of these pages from when they
20 actually were sent by you and received by you?

21 **A.** No change.

22 MR. BROWN: Your Honor, at this time the Government
23 would move to admit Government's Exhibit Number 10 into
24 evidence.

25 MS. DURRETT: Your Honor, I think the second page is

1 hearsay. I would object to that.

2 THE COURT: I'm going to admit it.

3 MS. DURRETT: Thank you, Your Honor.

4 MR. BROWN: Thank you, Judge.

5 Can we publish Exhibit Number 10 into evidence,
6 please? I mean, publish it. Not admit it.

7 **Q. (BY MR. BROWN)** So, Mr. Cohen, I'm going to direct -- you
8 can look at your copy there or look at the screen next to you.

9 But I just want to kind of walk through these emails so
10 the jury understands your dealings with Mr. Pendergrass.

11 All right. So, Mr. Cohen, you testified previously
12 that -- we're looking at Exhibit 10, Page 1.

13 At the top mcohen@nsidelaw.com, is that your email
14 address?

15 **A.** Yes, sir.

16 **Q.** And below that is the name Allen Pendergrass at
17 pendergrassallen@gmail.com and then E. Earvin at
18 eearvin@ebssassociates.com.

19 Do you recognize those email addresses?

20 **A.** Yes.

21 **Q.** Now, can you describe for the jury as relates to why are
22 you sending this email to Mr. Pendergrass and Mr. Earvin? Why
23 are you doing that?

24 **A.** They wanted their money. They demanded their money. I'm
25 not saying they together. But there was a demand for money

1 from me to be paid.

2 **Q.** And you testified you were not going to return the money?

3 **A.** Correct.

4 **Q.** And does this email lay out your reasons for why you are
5 not going to return the money and your current concerns about
6 fraud related to Attorney Recovery Systems and the use of the
7 name Gene Bloom?

8 **A.** Yes.

9 **Q.** I want you to turn -- could we turn to Page 2 of this
10 exhibit, please. So Page 2 is published.

11 And what are we looking at here, Mr. Cohen? Can you just
12 describe to the jury kind of what we're looking at here and why
13 this email was sent to you?

14 **A.** It was an email from Mr. Pendergrass telling me that
15 Ms. Lee decided to cancel the power of attorney that he had.
16 And he said see attachment. But I didn't know what that was
17 other than a power of attorney cancellation.

18 **Q.** Now, was that statement true based on your investigation
19 at this point in time? That Ms. Lee was canceling -- that
20 Ms. Lee had authorized the power of attorney for
21 Mr. Pendergrass?

22 **A.** That wasn't true.

23 **Q.** Why wasn't that true? How did you know that wasn't true?

24 **A.** Well, I tracked down the attorney for the Lee Family Trust
25 and sent him all of the documents. And he said he does

1 represent the Lee Family Trust.

2 MS. DURRETT: Your Honor, I'm going to object to
3 hearsay.

4 THE COURT: I think it is hearsay.

5 MR. BROWN: My only response, Your Honor, is I'm not
6 offering it for the truth of the matter. I'm offering it to
7 explain his conduct.

8 This explains why he sent the email and why he
9 decided not to return the funds to Mr. Pendergrass. So I'm not
10 admitting it for the truth of what he said.

11 THE COURT: All right. Ladies and gentlemen, let me
12 be very clear with you: I'm going to let the witness describe
13 the conversation. But that doesn't mean that anything again
14 that he -- that this witness states that somebody else told him
15 is true.

16 It just means that he is saying -- explaining why he
17 took -- he took his own actions and I gather from his testimony
18 didn't want to return the money back to the individual he has
19 identified he was dealing with in Atlanta.

20 **Q. (BY MR. BROWN)** So you can tell the jury what this
21 attorney told you. Just start from the beginning.

22 Who did you call, and what did you learn?

23 **A.** His name is Tom Zabel. He was an attorney that I found
24 after I spoke to the clerk. I emailed him -- we were emailing
25 back and forth regarding this.

1 And he in an email and on the phone told me this was not
2 his client's signature, they had no knowledge of this money
3 coming out or trying to come out, and that it was a good idea
4 to return the money to the county.

5 **Q.** So is it based in part on that conversation as to why you
6 did not return the funds to Mr. Pendergrass or Mr. Earvin and
7 instead you returned the funds to Harris County, Texas?

8 **A.** Yes.

9 MR. BROWN: That's all I have, Judge. Thank you.

10 CROSS-EXAMINATION

11 BY MS. DURRETT:

12 **Q.** Do you still have the exhibits up there that the
13 Government asked you to look at?

14 **A.** Let me take a look at them. I almost took them home with
15 me.

16 **Q.** Weren't there some letters?

17 **A.** No, I don't have those.

18 **Q.** What do you have up here?

19 **A.** This is a copy of that same letter.

20 **Q.** Does it have other documents related to this case?

21 **A.** Attached to it?

22 **Q.** Well, in that folder.

23 MR. BROWN: I have the documents you are referring to
24 here.

25 MS. DURRETT: Your Honor, I would just ask what the

1 witness is looking at -- what he has with him on the witness
2 stand.

3 THE COURT: That is fine.

4 A. I have a memorandum of that interview.

5 Q. (BY MS. DURRETT) With whom?

6 A. With the Government back in 2017.

7 Q. Can I have a look at it?

8 A. If there is no objection from anybody.

9 THE COURT: I think she is entitled to look at that.

10 Q. (BY MS. DURRETT) What else do you have there?

11 A. I have emails from Mr. Zabel I mentioned that -- about
12 the -- about the fact that Ms. Lee, the trust, had nothing to
13 do with these funds.

14 Do you -- you can have them all.

15 THE COURT: Could you just give her all the documents
16 you have up there?

17 THE WITNESS: Okay.

18 THE COURT: Thank you.

19 Do you need a minute to look at them?

20 MS. DURRETT: Yes, please.

21 THE COURT: If anyone needs to stand up, you are
22 welcome to. If anyone needs to go to the restroom, you are
23 welcome to.

24 Q. (BY MS. DURRETT) I have had a chance to look. I'm going
25 to hand you your folder back. I kept one document I'm just

1 going to ask you about.

2 **A.** Sure.

3 **Q.** Okay. The one I want to ask you about right off the bat
4 is -- it is just an email. It is to -- I think you talked
5 about sending an email to an attorney who was the
6 representative of the Lee Family Trust?

7 **A.** Tom Zabel?

8 **Q.** Tom Zabel.

9 And in this email that you are sending to him, you
10 represent that your client is Attorney Recovery Systems; right?

11 **A.** Yes.

12 **Q.** And that you have a purported agreement showing Ms. Lee as
13 the trustee?

14 **A.** Correct.

15 **Q.** Okay. What is that agreement?

16 **A.** Well, I don't have it any more. So whatever I had, I sent
17 him that document that purported to be the instrument used to
18 get these funds.

19 **Q.** Okay. But you don't have that any more?

20 **A.** No.

21 **Q.** Okay. And I think we talked about -- I'm going to hand
22 this back because I don't want to forget to do it.

23 I've had a chance to talk to you previously about this;
24 right? You and I have talked?

25 **A.** Let me take one look at this.

1 Q. Okay. Sure.

2 A. Okay. Go ahead. I'm sorry.

3 Q. That's okay. Okay. There is a lot to unpack.

4 But you and I have had a chance to talk previously. And I
5 think you told me that you had had one in-person meeting with
6 Mr. Pendergrass and Mr. Earvin; correct?

7 A. At least one.

8 Q. Well, is it one?

9 A. I don't recall.

10 Q. Okay. So I think the Government said it was about nine
11 years ago.

12 A. Yes.

13 Q. Right? And you don't have a file related to this case;
14 right?

15 A. Well, I thought about that. I have a lot of emails. You
16 have seen a bunch of them. So that was -- I don't have a hard
17 copy file any longer.

18 Q. Okay. But did you produce all of the emails that you had
19 related to the case?

20 A. I'm not sure. I went back and looked for my communication
21 with the attorney that was representing the Lee Family Trust,
22 and I think that was the only search thing I used.

23 Q. Okay. Did the Government ask you to produce all the
24 emails?

25 A. I don't recall.

1 Q. Okay. You don't have any time records or anything of the
2 time you spent; right?

3 A. No.

4 Q. Okay. You don't have a fee agreement that you signed with
5 Mr. Pendergrass, do you?

6 A. I can't produce one. It refers to an agreement in my
7 email to him telling him I am terminating the relationship. So
8 it just refers to one. So I'm assuming there was one. I just
9 can't locate it. I moved offices nine years ago.

10 Q. You don't have an engagement letter; right? Something --

11 A. I don't have it here for you. I don't recall if there was
12 one or not.

13 Q. As you were preparing for your testimony, did you see an
14 engagement letter with Mr. Pendergrass or with the Lee Family
15 Trust?

16 A. No.

17 Q. Okay. Would it have been your practice nine years ago to
18 have a client who is retaining you to sign an engagement
19 letter?

20 A. Not always.

21 Q. Okay. And at that point in time -- I think now you said
22 you are doing landlord/tenant. But back then you were doing
23 like helping people who had some violations or something and
24 you were helping them work through that?

25 A. Yes.

1 Q. And that is how Mr. Earvin came to you?

2 A. Yes.

3 Q. Okay. And Mr. Earvin had retained you as his lawyer to
4 help with some of that other stuff?

5 A. Yes.

6 Q. And then he introduced you to Mr. Pendergrass?

7 A. Yes.

8 Q. And what you told us you can recall about Mr. Pendergrass
9 is he was a nice Black man?

10 A. Who introduced himself as Allen Pendergrass.

11 Q. Okay.

12 A. Yes.

13 Q. Okay. And you don't have any notes from the meetings;
14 right?

15 A. No.

16 Q. Okay. And you -- the three of you were the only ones
17 present at that meeting?

18 A. I believe that is correct.

19 Q. Okay. You don't have any, like, phone call logs or voice
20 mails?

21 A. No.

22 Q. Okay. And so what you are saying is someone came to have
23 a meeting with you with another client and they produced
24 \$160,000 worth of checks and asked you to help them by putting
25 them in your trust account?

1 **A.** Yes.

2 **Q.** Okay. And at least as far as what this jury can see,
3 there is no written agreement about that?

4 **A.** There is no written agreement that I have any longer, if
5 there was one.

6 **Q.** Okay. And how much -- what was your fee going to be?

7 **A.** I believe it was \$2500.

8 And do you want to know what that was for?

9 **Q.** Sure.

10 **A.** That was for handling this matter, advising him about the
11 matter, contacting the parties, writing the parties, disbursing
12 the funds.

13 **Q.** Okay. So it was this meeting where you are talking about
14 okay, this is how we should handle it, I'll put the checks in
15 my account, and then this is how we'll disburse it? That is
16 what the money was for? To give that advice?

17 **A.** It was a general question-and-answer -- I was learning
18 about the business from Allen. So I was trying to do
19 everything right.

20 I liked the concept of finding money for people, but I
21 just wanted to do it right. And -- and that is the reason I
22 started digging into it a little bit more.

23 **Q.** And it was your expectation then that you would do this in
24 the future?

25 **A.** Yes.

1 Q. Okay. That this was going to be the beginning of
2 something where you would be able to deposit these checks and
3 disburse them?

4 A. Yes.

5 Q. And was it going to be 2500 each time?

6 A. You know, it never got that far. It was just a very --
7 more like hand-shaking and I look forward to working with you
8 kind of thing.

9 There may be a document. It refers to a document. But if
10 there is one, I don't have it any longer.

11 Q. But I want to be clear: They gave you the checks at that
12 meeting; is that right?

13 A. You know, I don't remember when I got them. I'm assuming
14 it was the first meeting. I don't remember if there was a
15 second meeting where they came in and brought the checks. I
16 just don't recall.

17 Q. Okay. But you knew the subject of your representation was
18 going to involve 160-or-so-thousand dollars?

19 A. Yes.

20 Q. Okay. Now, I don't think the Government talked with you
21 about any specific letters, did they? Did they show you any
22 letters that were sent to Harris County?

23 We haven't talked about those; right?

24 Okay. I think this is -- let me make sure I have the
25 right exhibit number. It is 10 -- it is Defendant's

1 Exhibit 10E.

2 I'm going to show it to you and just ask if you can look
3 through it for me and see if you recognize it.

4 **A.** (The witness complies.)

5 THE COURT: 10E?

6 MS. DURRETT: It is Defendant's 10E.

7 **Q. (BY MS. DURRETT)** Do you have that one?

8 **A.** Okay.

9 **Q.** Do you recognize those?

10 **A.** I do.

11 **Q.** Okay. And how do you recognize them?

12 **A.** Well, this -- a few of these pages have signatures of Gene
13 Bloom, and that is the person that told me he didn't sign them.

14 **Q.** Are those the letters that you saw at that meeting back
15 eight years ago?

16 **A.** I don't recall.

17 **Q.** But you recognize the letters?

18 **A.** Yes. I would like to think I would have seen something
19 like this before I would take the checks.

20 MS. DURRETT: Your Honor, I would move to admit
21 Exhibit 10E.

22 MR. BROWN: No objection, Judge.

23 THE COURT: It is admitted.

24 MS. DURRETT: Thank you, Your Honor.

25 **Q. (BY MS. DURRETT)** I'm going to go old school on you and

1 use this projector.

2 MS. DURRETT: Your Honor, is it okay if I publish
3 this?

4 THE COURT: Yes.

5 **Q. (BY MS. DURRETT)** All right. So the first page of 10E --
6 I'll try to -- that appears to be a fax from Attorney Recovery
7 Systems to Harris County; right?

8 **A.** That's what it appears to be.

9 **Q.** And I think you testified Harris County is the county that
10 was holding the funds for the Lee family? I mean, they were
11 the ones that owed the funds out; is that right?

12 **A.** Harris County was holding the funds.

13 **Q.** Okay. They are the ones that ended up writing the checks;
14 is that right?

15 **A.** Yes.

16 **Q.** Okay. So then the second page of the fax, if I can back
17 up, this just -- it looks like the -- well, you tell me what is
18 that.

19 **A.** Well, it says request for replacement refund checks.

20 **Q.** And then does it list several checks that are the --
21 several amounts, at least, that should be refunded?

22 **A.** Yes.

23 **Q.** Okay. And, again, up at the -- toward the top, the
24 address is Lee Family Trust, care of Attorney Recovery Systems?

25 **A.** Correct.

1 Q. Now I'm going to show you the third page and what -- if
2 you can see it. I can zoom in if you need to.

3 But what is this?

4 A. Well, it is from Attorney Recovery Systems with an address
5 on Piedmont Road.

6 Q. That is one thing I wanted to talk about. So that
7 address -- now, I know you said that you know Gene Bloom or you
8 talked to Gene Bloom?

9 A. I know a person that worked for him.

10 Q. Okay. And that is your neighbor?

11 A. That is my neighbor.

12 Q. Do you have an idea about where the office of the real
13 Attorney Recovery Systems is?

14 A. I think it is New York. But I'm just guessing.

15 Q. Okay. That is okay.

16 Did you have any reason to think it was on Piedmont Road
17 in Atlanta?

18 A. No, I didn't have any reason to think it was there.

19 Q. Okay. And then when you look down at the bottom, it is
20 addressed to the Harris County Tax Assessor; right?

21 A. Right.

22 Q. And then it has, again, the information about the check
23 and how much money is owed?

24 A. Right.

25 Q. Okay. And then at the bottom -- you have already talked

1 about this. But who signed it?

2 **A.** Gene R. Bloom, president.

3 **Q.** Okay. And I guess one other thing I'm going to point out
4 is: There is another address there; right? It is the address
5 where they want the check sent; right?

6 **A.** I see it looks like a different address.

7 **Q.** Yeah. Well, is it the same as the address at the top?

8 **A.** No.

9 **Q.** Okay. And then Page 4 is a -- it looks like a similar
10 letter. And these were all together in that fax; right?

11 **A.** Yes.

12 **Q.** And same Attorney Recovery at the top with that Piedmont
13 Road?

14 **A.** Right.

15 **Q.** All right. Again, we're sending it out to Harris County;
16 right?

17 **A.** Yes.

18 **Q.** All right. And then who signed it?

19 **A.** Bloom.

20 **Q.** Gene Bloom.

21 All right. We're at the top. This is the third letter.
22 And, again, we have got that Piedmont Road address at the top;
23 is that correct?

24 **A.** Yes.

25 **Q.** All right. Send out to Harris County?

1 **A.** Yes.

2 **Q.** A check amount listed there?

3 **A.** Correct.

4 **Q.** And who is it signed by?

5 **A.** Bloom.

6 **Q.** Gene Bloom.

7 I'll just represent you are saying the real Gene Bloom
8 didn't sign these?

9 **A.** Correct.

10 **Q.** This is, I think, the fourth letter. And I'm just going
11 to represent to you that it has got a similar pattern; right?
12 It has got the Piedmont Road at the top, the check amount, and
13 it is signed by Gene Bloom.

14 Do you have any reason to disagree with that?

15 **A.** No.

16 MR. BROWN: Your Honor, I'll stipulate that all the
17 letters have the one address at the top and the other. I think
18 it is cumulative at this point. But I'll stipulate to that,
19 Your Honor.

20 MS. DURRETT: That is fine.

21 **Q.** **(BY MS. DURRETT)** I mean, there are five letters, and they
22 are all signed by Gene Bloom; right? All returned to -- or all
23 with the letterhead at 3333 Piedmont Road; is that right?

24 **A.** Correct.

25 **Q.** I'll put it up there so you can see.

1 Okay. And then connected to it there are these limited
2 power of attorney forms, and they are again on Attorney
3 Recovery Systems letterhead; correct?

4 **A.** Correct.

5 **Q.** Okay. That is all I have about Exhibit 10E.

6 Have you ever heard of a person named Terrell McQueen?

7 **A.** No, except for earlier today.

8 **Q.** Okay. Well, that is what I'm going to ask you about.

9 Would it surprise you to know that -- I'm going to show
10 you Exhibit 28A.

11 Have you ever seen -- well, I showed it to you earlier.

12 But have you ever seen that exhibit other than today?

13 **A.** I don't recall ever seeing this.

14 **Q.** Do you know who Terrell McQueen is?

15 **A.** No.

16 **Q.** During the business meeting that you had nine years ago,
17 did anyone ever show you a business license for Attorney
18 Recovery Systems?

19 **A.** Not that I recall.

20 **Q.** I'm sorry?

21 **A.** Not that I recall.

22 **Q.** Okay. And you eventually returned the money to Harris
23 County; right?

24 **A.** I did.

25 **Q.** Okay. So that money was never paid out to the people that

1 you met with on that day?

2 **A.** Correct.

3 **Q.** Okay. Have you ever heard of a company called Lionheart
4 Layer?

5 **A.** No, ma'am.

6 **Q.** I think I'm saying it right.

7 You didn't ever do any business paperwork for Lionheart
8 Layer & Associates?

9 **A.** I certainly don't recall it.

10 **Q.** Okay. All right. Well, let me ask you: Did the
11 Government ask you about that?

12 **A.** Not that I recall.

13 **Q.** I mean even in recent days.

14 **A.** No.

15 MS. DURRETT: Okay. Thank you. No further
16 questions.

17 MR. BROWN: Nothing further, Judge. The witness can
18 be excused.

19 THE COURT: Yes. Please don't discuss your testimony
20 with anyone else until the trial is over.

21 THE WITNESS: Yes, ma'am.

22 Can I leave the building?

23 THE COURT: Yes, you can leave the building.

24 THE WITNESS: All right. Thank you.

25 MR. BROWN: Your Honor, the Government wants to call

1 Terrell McQueen to the stand.

2 THE COURT: Why don't we wait until this witness
3 leaves.

4 MR. BROWN: Yes, sure.

5 THE COURT: Please don't have any interaction with
6 the witness coming in. All right?

7 I want -- before he does come in, I wanted to give
8 the jury an instruction.

9 During the trial and in particular with our last
10 witness and several others, you have heard evidence of acts
11 allegedly done by the defendant, Mr. Pendergrass, in connection
12 with Touse Homes, Quarterback Club, Weissman Nowack Curry &
13 Wilco, the Lee Family Trust most recently, and Holland & Knight
14 and Hemisphere, Inc.

15 These acts are not ones that are charged in the
16 indictment. You have been provided this information because
17 the Government believes these acts are intrinsic to the charged
18 conduct. That means that they are -- that they view them as
19 necessary to complete the story of the crimes they have charged
20 and which you have to actually make -- reach a verdict on.

21 I caution you that the defendant is on trial only for
22 the specific crimes charged in the indictment, not for any of
23 these collateral acts that are being introduced to you and
24 introduced into evidence.

25 You are here to determine from the evidence in this

1 case as a whole though whether the defendant is guilty or not
2 guilty of the specific crimes charged in the indictment that
3 were identified to you from the start, the ten offenses.

4 So this will be deemed relevant evidence, but it is
5 not -- these are not the crimes actually charged. And you are
6 to be careful in understanding that and assessing the evidence
7 accordingly.

8 Thank you.

9 COURTROOM DEPUTY CLERK: If you would, please raise
10 your right hand.

11 **(Witness sworn)**

12 COURTROOM DEPUTY CLERK: Please have a seat. You can
13 remove your mask while you are on the stand.

14 Please state your full name and spell your last name
15 for the record.

16 THE WITNESS: Okay. Terrell LaShawn McQueen. And
17 last name, M-C-Q-U-E-E-N.

18 Whereupon,

19 TERRELL LASHAWN MCQUEEN,
20 after having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BROWN:

23 **Q.** Good morning, Mr. McQueen.

24 **A.** Good morning.

25 **Q.** How old are you?

1 **A.** I'm 41.

2 **Q.** What is the highest level of education you have completed?

3 **A.** I have a bachelor's degree.

4 **Q.** What do you have your degree in?

5 **A.** Accounting.

6 **Q.** Where did you obtain that degree?

7 **A.** DeVry University.

8 **Q.** And are you currently employed?

9 **A.** No, I am not.

10 **Q.** Are you on disability?

11 **A.** Yes, I am.

12 **Q.** Why are you on disability?

13 **A.** Earlier this year, I went to the hospital and -- in
14 February or March. I had a bone infection. And I lost my
15 right leg -- lower left leg.

16 **Q.** Do you suffer from any medical condition that affects your
17 memory?

18 **A.** No, sir.

19 **Q.** Now, I understand you are not currently employed because
20 you are on disability.

21 When you were employed, what kind of work did you do?

22 **A.** I was previously in sales.

23 **Q.** What kind of sales?

24 **A.** Automotive sales.

25 **Q.** Was that recently? Last few years?

1 **A.** I would say 2019, yes.

2 **Q.** All right. And prior to 2019, did you have -- did you do
3 any accounting-type work?

4 **A.** No.

5 **Q.** Did you work for a university?

6 **A.** I did.

7 **Q.** What university did you work for?

8 **A.** I worked for Clark Atlanta University.

9 **Q.** And how long have you worked -- did you work for Clark
10 Atlanta University?

11 **A.** I believe six -- six or seven years from 2007 to 2013.

12 **Q.** All right. And what type of work did you do with Clark
13 Atlanta University?

14 **A.** I was a staff accountant.

15 **Q.** Staff what?

16 **A.** Staff accountant.

17 **Q.** Staff accountant?

18 **A.** Yes, sir.

19 **Q.** I think I previously asked you did you do accounting work.
20 Maybe I misspoke, but I think you stated no.

21 So was that -- it sounds like staff accountant is
22 accounting work. Is that fair?

23 **A.** Yes. You said previously. So before sales, it was
24 accounting work.

25 **Q.** Okay. Maybe I misspoke. But you did work in accounting?

1 **A.** I did, yes.

2 **Q.** You did that for Clark Atlanta University?

3 **A.** I did.

4 **Q.** All right. Do you know the defendant in this case, Allen
5 Pendergrass?

6 **A.** Yes, I do.

7 **Q.** How do you know Mr. Pendergrass?

8 **A.** We worked together on several occasions.

9 **Q.** Do you see Mr. Pendergrass in court?

10 **A.** Yes, I do.

11 **Q.** Can you please point to him and describe an article of
12 clothing that he is wearing?

13 **A.** It looks like he has a suit on. I don't know if that is
14 an olive color or gray color.

15 **Q.** He is the African-American gentleman sitting at the
16 counsel table -- defense counsel table?

17 **A.** Yes.

18 MR. BROWN: Let the record reflect that the witness
19 has identified the defendant, Mr. Pendergrass.

20 **Q.** **(BY MR. BROWN)** So how did you come to work for Allen
21 Pendergrass?

22 **A.** We first began working in '06. I was working at a tax --
23 a tax firm.

24 **Q.** Let me stop you there. So you started working with
25 Mr. Pendergrass in 2006; correct?

1 **A.** Yes.

2 **Q.** And how did you even meet Mr. Pendergrass to come to work
3 for him? How did that happen? Explain that.

4 **A.** I was working for an attorney -- tax attorney. And one of
5 his clients saw me working with the tax attorney, and he
6 thought that we worked well together, and he suggested that he
7 had a friend that I would work well with as well.

8 **Q.** So at that point, you and Mr. Pendergrass met and you
9 started working for him?

10 **A.** We met -- we had a meeting. And then we discussed working
11 and then the terms and the pay. And then I left, and I worked
12 for him. It was like December -- December of 2006.

13 **Q.** All right. So the time you worked for Mr. Pendergrass in
14 2006, were you still working for Clark Atlanta University?

15 **A.** I hadn't worked for Clark Atlanta yet.

16 **Q.** Okay. So this is before Clark Atlanta?

17 **A.** Yes.

18 **Q.** And at the time, what was the nature of Mr. Pendergrass's
19 business that you were going to be working with him in?

20 **A.** So I wanted to do some accounting work for him. I was
21 still in school at the time. And so I just wanted to do some
22 bookkeeping work. And so that was the -- the set of terms that
23 I -- that we agreed upon to work -- to work for him.

24 **Q.** And what kind of business was Mr. Pendergrass operating in
25 2006 such that it needed bookkeeping work?

1 **A.** He -- Mr. Pendergrass claimed he had an asset recovery
2 business. At that time, the term was new to me. So I was new
3 to that business -- understanding the business.

4 **Q.** All right. You said Mr. Pendergrass claimed to have. So
5 did he have an asset recovery business? Why do you say he
6 claimed to have one? Did he actually have a business?

7 **A.** Yes, he had a business. Yes.

8 **Q.** Were there employees there?

9 **A.** Yes, there was.

10 **Q.** Were they engaged as far as your knowledge into the
11 recovery of assets?

12 **A.** Yes.

13 **Q.** At that time in 2006, what was your understanding of how
14 Mr. Pendergrass's business operated, if you had an
15 understanding at all?

16 **A.** I didn't have a 100 percent understanding of the business.
17 I knew that they collected money. But I was really focused on
18 just doing accounting work.

19 **Q.** All right. I'm not an accountant, and I know accounting
20 work can get kind of granular. So I don't want you to give me
21 all the details.

22 But can you just tell the jury an overview of what kind of
23 accounting work were you doing?

24 **A.** Just reconciling his books in Quickbooks.

25 **Q.** And is this a part-time job or a full-time job?

1 **A.** It was going to be a full-time job.

2 **Q.** You said it was going to be a full-time job. What do you
3 mean by that?

4 **A.** Well, it was a full-time job. I'm sorry. I ended up
5 getting fired. But --

6 **Q.** All right. So tell us about -- so how long had you worked
7 there?

8 **A.** Maybe a month.

9 **Q.** Why --

10 **A.** Maybe a month and a half.

11 **Q.** Why did you get fired?

12 **A.** If I -- I got fired because I wasn't -- I didn't want to
13 do any selling on the asset recovery side. And I felt like I
14 just wanted to do bookkeeping work. And they were -- him and
15 his wife at the time were trying to get me to do the other
16 aspects of the business.

17 **Q.** All right. So did they fire you, or did you decide to
18 leave? How did your separation -- how did it end?

19 **A.** So I was told by his wife at the time that it wasn't going
20 to work out, so I was fired. But they were going to write me
21 a -- a letter of recommendation to where my next place of
22 employment was going to be.

23 **Q.** So did you get a letter of recommendation?

24 **A.** I did not.

25 **Q.** Why not?

1 **A.** I was upset.

2 **Q.** Why were you upset?

3 **A.** Because I had left -- I had left the tax attorney,
4 something a little bit more stable, for him. And it ruined a
5 relationship with that tax attorney because it was getting
6 close to tax season and he needed me. And the money was
7 more -- he was paying me more, and I felt I needed to leave.

8 **Q.** Did you express your dissatisfaction to Mr. Pendergrass or
9 his wife?

10 **A.** No.

11 **Q.** Why not?

12 **A.** I just left. When they let me go, I just left.

13 **Q.** All right. So that is 2006. And approximately how many
14 months? You said one month; is that correct?

15 **A.** One or two months. Somewhere around there.

16 **Q.** All right. So let's kind of fast forward since we're
17 still back in 2006.

18 Did there come a time later on that you got reacquainted
19 with Mr. Pendergrass?

20 **A.** Yes. Around -- we saw each other in a retail store in
21 2009. And then in 2010, he had a small retail business out in
22 Jonesboro that he wanted me to do inventory for.

23 **Q.** All right. Let me stop you there.

24 So when you say a retail business, what is he selling?
25 What is he retailing?

1 **A.** Just -- I believe it was cell phones. Yeah.

2 **Q.** All right. So did you actually -- did you work and do any
3 inventory for Mr. Pendergrass in the cell phone business?

4 **A.** Yes, I did some inventory there. Yeah.

5 **Q.** And approximately how long did that work last with
6 Mr. Pendergrass?

7 **A.** I don't remember how long. It wasn't long at all.

8 **Q.** All right. So this is 2009, 2010?

9 **A.** This is probably 2010.

10 **Q.** At this time, are you working with Clark Atlanta?

11 **A.** Yes, I am.

12 **Q.** So is your employment with Mr. Pendergrass a part-time
13 job?

14 **A.** Yes. It was some side work.

15 **Q.** All right. So at this time, what is the nature of the
16 relationship? In 2009, 2010, what is the nature of your
17 relationship with Mr. Pendergrass?

18 **A.** Well, when I met -- well, when we met at the store, he
19 told me his wife died. And so we just kind of were hanging out
20 just talking.

21 **Q.** Okay. Now, are you and Mr. Pendergrass around the same
22 age?

23 **A.** No.

24 **Q.** So what is the age between you and Mr. Pendergrass
25 approximately?

1 **A.** He's probably 20, 25 years older than me.

2 **Q.** So you started hanging out with Mr. Pendergrass?

3 **A.** Yes.

4 **Q.** And what does hanging out mean?

5 **A.** Having drinks, playing pool.

6 **Q.** Are you still working for his cell phone business at this
7 point in time or no?

8 **A.** No, I'm not. I don't think -- the guy he had running the
9 store, I don't -- he didn't trust him. Mr. Pendergrass did not
10 trust him. And so I ended up -- we were having too many
11 disputes or issues. And so I ended up not staying around.

12 **Q.** So that is 2010 you testified previously.

13 Does there come a time in the future you start working for
14 Mr. Pendergrass, I guess, a third time?

15 **A.** Yes. We started talking again in the -- the end of 2012.

16 THE COURT: I'm sorry. Would you just clarify in --
17 the period of time in 2010 you are talking about, were you
18 still working at Clark Atlanta?

19 THE WITNESS: Yes -- yes, Your Honor.

20 THE COURT: All right.

21 **Q.** **(BY MR. BROWN)** I think you testified this was part-time
22 work with Mr. Pendergrass; correct?

23 **A.** Yes.

24 **Q.** So during 2010 and up to 2012, are you maintaining contact
25 with Mr. Pendergrass? Are you still hanging out doing things

1 friends would do together?

2 **A.** Not as much. We were friends. I invited him -- I
3 remember inviting him to my wedding. I had a wedding in June
4 of 2011. I remember him showing up. I was surprised that he
5 did show up.

6 But it wasn't like as frequent then. And so that is what
7 I remember.

8 **Q.** All right. So let's go to 2012 when you start working for
9 Mr. Pendergrass again.

10 Explain how you met with him again. And what was the
11 nature of the business such that he needed you to work for him?

12 **A.** So I had a -- I took an FMLA at Clark because I was having
13 some medical issues going on. And so we were just talking
14 about starting his business over I guess to try to get the
15 business back going to where he had it in 2006 when I first met
16 him.

17 **Q.** Okay. So did you approach Mr. Pendergrass and tell him,
18 hey, let's get the business back together? Or how did it work?
19 Did he come to you? Who approached who about starting the
20 business?

21 **A.** I talked to him about the business. And at first, he did
22 not -- he said the holders or the counties weren't paying as
23 much or business was slow. And so he wasn't enthusiastic about
24 starting the business again.

25 **Q.** What was your understanding in 2012? Was Mr. Pendergrass

1 engaged in the business, or had his business completely
2 stopped?

3 **A.** So I found out that he had moved offices, but -- or he was
4 no longer at the Fayetteville office, which was a -- he had a
5 big office. Mr. Pendergrass had a big office building in
6 Fayetteville. It was a two -- it was like two offices joined
7 together. And he didn't have that any more. So I was trying
8 to figure out what was going on.

9 **Q.** All right. So what did he tell you about what was going
10 on? Was the business ongoing? Or explain how the business
11 started. What was going on?

12 **A.** We were just talking about getting it started, and I
13 didn't know where his new business was at first. We were just
14 meeting a lot at the house where he was living.

15 **Q.** Okay. So what month in 2012 did you and Mr. Pendergrass
16 actually start the business?

17 **A.** So I believe we -- it was either -- it was sometime in
18 November or December.

19 **Q.** And how did you start the business with Mr. Pendergrass?
20 Did you get an office space? Did you get telephones? Did you
21 get employees? Explain how the business started for the jury.

22 **A.** So he had already had a business, the Asset Financial
23 Recovery he told me about he had started. And he said he
24 wasn't working on it. And so we -- he was like, well, we can
25 work under this name and this business. And so that is when I

1 learned about the new office space.

2 **Q.** All right. And where is this office space you are
3 referring to?

4 **A.** The office space in College -- I believe College Park.

5 **Q.** Okay. And what was your role in the business? What was
6 Mr. Pendergrass's role, and what was your role? How would you
7 describe them?

8 **A.** And so I was trying to understand if I remembered how the
9 business worked, what we were discussing how it worked. And so
10 he had a list that he said nobody was working off of. And so
11 he said we could start with that list. So I started -- I
12 started working off of that list.

13 **Q.** And when you say list, what are you referring to?

14 **A.** So a holders' list. A holders' list is a list of
15 unclaimed checks or uncashed checks that were from a county
16 such as -- a county or city municipality. So like the City of
17 Atlanta or -- or the City of Dallas.

18 **Q.** Did Mr. Pendergrass provide you this list?

19 **A.** Yes. That exclusive list, yes.

20 MR. BROWN: May I approach the witness, Judge?

21 THE COURT: Yes.

22 **Q. (BY MR. BROWN)** I'm going to show you what has been marked
23 as Government's Exhibit 32. Take a look at that and tell me if
24 you recognize it.

25 **A.** Yes. This is the list that I began to work off of.

1 Q. Take a look through it and make sure I didn't put a
2 picture of my kid in the back or something like that.

3 A. The first page is an older list -- I mean, yeah, it is the
4 older list. And it looks like the second page is an updated
5 newer list.

6 Q. All right. So just flip through the whole thing, and I'm
7 going to ask you some questions about it.

8 A. (The witness complies.)

9 Okay.

10 Q. So do you recognize what is marked as Government's
11 Exhibit Number 32?

12 A. Yes.

13 Q. And how do you recognize it?

14 A. There are familiar names on the list.

15 Q. Is that a copy of the list or lists that you received from
16 Mr. Pendergrass?

17 A. Yes, it is.

18 Q. Okay. And is that the list you worked off of when you
19 were employed or one of the lists you worked off when you were
20 employed with Mr. Pendergrass?

21 A. The first page is the second page I was -- I was assigned
22 with sending out Freedom of Information requests to different
23 holders throughout the U.S. to get updated lists.

24 Q. So all the pages in Exhibit Number 32, are they lists that
25 you worked with at some point during your time with

1 Mr. Pendergrass?

2 **A.** Yes.

3 **Q.** Have there been any changes or alterations or deletions to
4 the lists that you can see?

5 **A.** Not that I'm aware of.

6 MR. BROWN: At this time, Your Honor, the Government
7 would move to admit Exhibit Number 32 into evidence.

8 MS. DURRETT: I don't have an objection, Your Honor.

9 THE COURT: It is admitted.

10 MR. BROWN: Permission to publish?

11 THE COURT: Yes.

12 MR. BROWN: Harry, can I use this?

13 **Q. (BY MR. BROWN)** All right. So I'm showing you what has
14 been marked as Government's Exhibit Number 32.

15 Can you just -- generally just describe -- we're not going
16 to go through all of this. Can you just describe to the jury
17 what we're looking at and how you use a list like this to
18 obtain funds?

19 **A.** So the list here -- what you would do is you first get the
20 list and then you would skip trace the list. Skip tracing
21 means you would find all of the mailing information and contact
22 information, for instance, of a Holland & Knight or someone of
23 the YWCA of Greater Atlanta.

24 And then once you found the contact information, then you
25 would try to contact them or send them a letter saying that

1 there was some funds available for them.

2 **Q.** So is that generally how the business should operate?

3 **A.** Yes.

4 **Q.** All right. So once you contact the individual who is
5 actually owed the funds, what happens next?

6 **A.** So usually there's some skepticism. But once you contact
7 them, you would tell them how much the funds -- how much they
8 would have in the funds available. And then once you get them
9 to sign, then you would -- you would collect on their behalf.

10 **Q.** Okay. So did you engage in that practice when you first
11 started working with Mr. Pendergrass?

12 **A.** Yes, I did.

13 **Q.** Were you successful in signing up individuals to reclaim
14 their money for them?

15 **A.** Yes, I was.

16 **Q.** All right. And what was -- how were you paid as a result
17 of the funds that you recovered? What was your fee?

18 **A.** So me and Mr. Pendergrass agreed upon 33 percent of the
19 money collected.

20 **Q.** And typically how much money would you -- out of that --
21 say if it is \$10,000, how much would the actual client lawfully
22 get back and how much would you guys keep for your fee as the
23 firm recovering the money?

24 **A.** So if they didn't negotiate it, we start at 33 percent.
25 Sometimes a client would try to negotiate down to 25 percent.

1 But the standard was 33 percent.

2 Q. Out of that 33 percent, how much do you get as working for
3 Mr. Pendergrass?

4 A. So if I closed that deal, then I would get the 33 percent.

5 Q. Okay. Would you get the entire 33 percent?

6 A. Yes.

7 Q. So at the time you were working in the business, is Mr.
8 Pendergrass also working in the business to recover funds?

9 A. Yes.

10 Q. All right. Are you guys working together? Are you
11 working independently? Can you describe for the jury the
12 nature of how you were working to obtain these funds?

13 A. Yes, we're working together.

14 Q. All right.

15 A. I would go -- I would go to his house in the morning and
16 pick him up, and we would go to -- we would run errands. But
17 we would go to the office together.

18 Q. Would you pick him up every morning?

19 A. Yeah. Pretty much. Yes.

20 Q. Did Mr. Pendergrass drive at this time?

21 A. He had a car. But yeah, he drove.

22 Q. But it was your practice to pick him up most mornings?

23 A. I would say most mornings, yes.

24 Q. And what kind of car did Mr. Pendergrass drive in 2012,
25 2013?

1 **A.** A Mercedes -- a gray or silver Mercedes.

2 **Q.** All right. So did there come a point as to -- instead of
3 lawfully obtaining the money from these different
4 municipalities that you started forging signatures and forging
5 names and power of attorneys to get the money?

6 **A.** Yes, we did.

7 **Q.** All right. You said we did.

8 How did that start? How did you start going from a
9 legitimate business to forging names and getting money you were
10 not entitled to?

11 **A.** So the first couple of attempts I tried to close were
12 unsuccessful. And we discussed because it was unsuccessful
13 that we thought that they didn't want the money.

14 **Q.** What do you mean they didn't want the money?

15 **A.** So first there is -- the Holland & Knight was pretty old.
16 It was from 2001. And so we had discussions about them not
17 wanting the money.

18 **Q.** You said we had discussions. Who was we?

19 **A.** Me and Mr. Pendergrass.

20 **Q.** What were those discussions?

21 **A.** So after my attempt of trying -- I called Holland &
22 Knight. I actually went up to their office to try to talk to
23 someone to make the sale. After those attempts, we discussed
24 trying -- trying to get the money from them.

25 **Q.** Okay. I want to publish what has already been admitted

1 into evidence as Government's Exhibit Number 12. I'm going to
2 use the overhead.

3 So you just testified about Holland & Knight; is that
4 correct?

5 **A.** Yes.

6 **Q.** All right. So look at your screen. This is Government's
7 Exhibit Number 12.

8 What are we looking at here? Describe what we are looking
9 at here.

10 **A.** Okay.

11 **Q.** You can look at the screen.

12 **A.** Okay. Yeah.

13 **Q.** Sorry about that. You have a screen right next to you.
14 So you can just turn there and look at it.

15 **A.** So we're looking at a submission record to the City of
16 Atlanta.

17 **Q.** Let's start at the top. Attorney Recovery Systems, Inc.,
18 what is that company?

19 **A.** That company was a company me and Mr. Pendergrass decided
20 to make up to try to obtain the funds from Holland & Knight.

21 **Q.** Now, describe how did you and Mr. Pendergrass make up this
22 company.

23 **A.** So we would search or being me and Mr. Pendergrass would
24 search the Georgia Secretary of State website -- can you hear
25 me?

1 We would search the website and look for defunct companies
2 and then make -- change a letter or two.

3 **Q.** All right. Is that what you did in this -- related to
4 Attorney Recovery Systems?

5 **A.** Yes. Because there was a company called -- a real company
6 called Attorney Recovery System with an S. And so we just
7 took -- I just took off the S, or we decided -- me and
8 Mr. Pendergrass decided to take off the S and to form this
9 company.

10 **Q.** Now, you said I just took off the S. Did you -- in
11 addition to changing the name of the company that you used,
12 what about the address there? What is that address? Is that a
13 real company address?

14 **A.** No, it is not. It is a virtual address.

15 **Q.** Who opened that virtual office?

16 **A.** I opened the virtual office.

17 **Q.** Okay. Why did you open a virtual office?

18 **A.** Because we -- me and Mr. Pendergrass had a discussion
19 about we -- we needed to have an office in Atlanta that looked
20 like it was in Atlanta.

21 **Q.** So let's look -- so the amount of money is \$359,000. That
22 is a lot of money; correct?

23 **A.** Yes, it is.

24 **Q.** What was -- if you were to obtain this money, how would
25 this be money be divided?

1 **A.** And so when we first discussed it, the split was that I
2 would -- he would give me 150,000 of the 359.

3 **Q.** And then he would keep the rest?

4 **A.** That's correct.

5 **Q.** Why would he get a larger percentage than you?

6 **A.** He had the information.

7 **Q.** And what information is that?

8 **A.** He had -- this was his list that he had obtained. And as
9 I understood it, no one else had that list.

10 **Q.** The name Gene R. Bloom, is that a real signature or is
11 that a forged signature?

12 **A.** That is a forged signature.

13 **Q.** Who forged that signature?

14 **A.** I forged that signature.

15 **Q.** Why did you forge the signature?

16 **A.** We needed a name to use, and I believe that that name was
17 from the previous company that was -- that was dead on the
18 Georgia Secretary website.

19 **Q.** I want to turn to Page 2 of the exhibit. So what is this
20 document here?

21 **A.** That is the limited power of attorney that is sent out
22 initially with the -- when you try to alert someone to sign
23 with you.

24 **Q.** So Steve Cohen -- the real Steve Cohen didn't sign that;
25 correct?

1 **A.** That's correct.

2 **Q.** Who signed that?

3 **A.** I signed that.

4 **Q.** And then below that where the notary seal is there, the
5 writing looks different between the signature and there.

6 Who signed or who wrote Steve E. Cohen?

7 **A.** That is Mr. Pendergrass's handwriting.

8 **Q.** How are you able to recognize that?

9 **A.** We were the only ones working on this -- on the Holland &
10 Knight. No one else.

11 **Q.** Were there other people in the office at this time that
12 were doing this kind of work with you guys?

13 **A.** No.

14 **Q.** Who is Deidre Barber?

15 **A.** It was a former girlfriend of Mr. Pendergrass.

16 **Q.** Did she work in the office eventually?

17 **A.** She was with him, yes.

18 **Q.** What do you mean with him?

19 **A.** So some days she would be there. Some days she wouldn't.

20 **Q.** At the time, was Ms. Barber and Mr. Pendergrass -- were
21 they dating, to your understanding?

22 **A.** To my knowledge, yes.

23 **Q.** Is there a reason why you would sign one part of the page
24 and Mr. Pendergrass would sign the other? Why would you do
25 that?

1 **A.** To make it look more believable and not have the same
2 handwriting.

3 **Q.** Let's talk about the notary at the bottom. Is that a
4 legitimate notary that someone came to your office and
5 notarized the document?

6 **A.** No, it is not.

7 **Q.** Where did you obtain the notary from?

8 **A.** That notary was obtained from Mr. Pendergrass.

9 **Q.** Okay. Where did Mr. Pendergrass obtain the notary?

10 **A.** So from -- so at the time we did this document, we didn't
11 have his old database. And so he had maybe old documents from
12 his computer that he had old seals and old notary seals from.
13 And so that's what -- that is where that came from.

14 **Q.** How did you get the notary from the old or the real
15 document and put it on this fake document?

16 **A.** So that was the job of Mr. Eric Fitchpatric.

17 **Q.** Who hired Eric Fitchpatric to work at the firm?

18 **A.** That was Mr. Pendergrass.

19 **Q.** So it is safe to assume that this whole exhibit -- all
20 these signatures are fake; correct?

21 **A.** Yes. So if you put the seal and the -- the seal and the
22 signature, that is a lifted signature. Someone didn't actually
23 sign that. It was just photoshopped off and placed online.

24 **Q.** How was that done? How was the signature photoshopped?

25 **A.** So through Photoshop, I believe you can just lift the

1 signature and the seal off of -- off the document and place it
2 on a new document.

3 **Q.** And you testified that is also a job of Mr. Fitchpatric as
4 well?

5 **A.** Yes.

6 **Q.** And once Mr. Fitchpatric lifted the seal or the signature,
7 what did he do with it? What happened next?

8 **A.** We would have him talk about -- put the seal and the
9 signature on and place it to where it would look believable.
10 And so we would make test runs. We would print out documents
11 and look at it to see if it looked authentic or not.

12 **Q.** All right. I want to ask you one question about Page 1.

13 Below Holland & Knight, care of Attorney Recovery System,
14 there is an address. And I think you testified that was an
15 address you set up; correct?

16 **A.** Yes, it is.

17 **Q.** Was Mr. Pendergrass aware of the address being set up?

18 **A.** Yes.

19 **Q.** How was he aware?

20 **A.** Because I didn't remember how to make a submission at
21 first. And so he had to walk me through the steps on how to
22 make a submission to the City of Atlanta. So we talked about
23 creating an address for -- because it was a large amount, we
24 wanted to distance ourselves from it.

25 And so we had to create an address -- we picked in Atlanta

1 in Buckhead because it was a nicer area and it was more
2 believable that way.

3 **Q.** Okay. I also have -- on Exhibit 12, Page 4, I have a copy
4 of -- it looks like a business card.

5 Can you explain that to the jury?

6 **A.** Yeah. And so when I actually went up there to go to
7 Holland & Knight, I received a business card. And that is just
8 a copy of a formatted business card.

9 I actually had Eric change the name on the business card
10 and so -- the name and the address -- the -- okay. The address
11 is the same one there. But the name and credit and collections
12 manager was photoshopped.

13 **Q.** Okay. What about the phone numbers at the bottom?

14 **A.** We left the phone -- the phone numbers were real. We left
15 it so as to make it -- hide it in plain sight, for instance.

16 **Q.** So in addition to the name Attorney Recovery System, Inc.,
17 are there other business names that you and Mr. Pendergrass
18 used to submit forged documents?

19 **A.** Yes, there was.

20 **Q.** Do you recall those names?

21 **A.** One was Lee Family Trust.

22 **Q.** Okay.

23 **A.** And another one -- as I'm looking on here, Atlanta
24 Quarterback Club was another one.

25 **Q.** All right.

1 **A.** So I don't remember the other ones.

2 **Q.** All right. I'm going to show you what has already been
3 admitted into evidence as Government's Exhibit Number 1.

4 Do you recognize this document? Let me zoom out.

5 **A.** Yes, I do.

6 **Q.** How do you recognize this?

7 **A.** It was one of the firms from the initial listing.

8 **Q.** Okay. So that company, Asset Financial Recovery, is that
9 a company that you and Mr. Pendergrass used to obtain funds?

10 **A.** Yes, it was.

11 **Q.** That address -- where is that address at the top?

12 **A.** That is Mr. Pendergrass's address.

13 **Q.** All right.

14 **A.** In College Park.

15 **Q.** And do you recall this particular account, Weismann Novack
16 & Curry?

17 **A.** Yes, I do.

18 **Q.** Did you sign the bottom as Terrell McQueen?

19 **A.** Yes, I did.

20 **Q.** Page 2 of Exhibit 1, is this a forged signature of Ashley
21 Lanier?

22 **A.** Yes, it is.

23 **Q.** Who forged that signature?

24 **A.** That is my signature. That is my handwriting for the
25 signature and the printed name.

1 Q. Okay. Do you recognize any handwriting at the bottom for
2 the notary public?

3 A. That -- that is a lifted signature and a lifted seal.

4 Q. What about the writing Georgia, Fulton, 31 May?

5 A. I don't recall whose handwriting that is.

6 Q. Did you create the business card?

7 A. I did make that card, yes.

8 Q. Can you describe what we're looking at here?

9 I don't know if you can see it. It is kind of small. If
10 you need me to enlarge it, please let me know.

11 Let's enlarge the top. What is ZOHO CRM?

12 A. So it is a customer relationship management database. And
13 so once you receive a listing from a holder, for instance the
14 City of Atlanta, if it was in an Excel spreadsheet, you could
15 upload that Excel spreadsheet into that database.

16 Q. Now, if you look in the middle of the page, it says
17 modified by Shawn McQueen.

18 Did you go by Shawn?

19 A. Yes. That is my middle name.

20 Q. Do you know when it says modified -- is this a software
21 program that is on the computer, or was it online? How does it
22 operate?

23 A. Yes. So it is in the cloud. And so you can log on to it
24 anywhere.

25 Q. Do different users have different log-ins, or how does a

1 log-in process work to your understanding?

2 **A.** So you could have one user, and then you can assign
3 different users.

4 **Q.** Do you recall how it was set up at the firm that you were
5 working at with Mr. Pendergrass?

6 **A.** Yeah. I don't remember using my name Shawn there. So --
7 but I guess we did because it is there.

8 But if it was modified, it would say modified if you added
9 notes to it. Or if you said called or updated customer or
10 something like that then, then it would say modified by the
11 person whose name it was under.

12 **Q.** Let me show you what has been marked as Exhibit Number 2.
13 Do you recognize this document?

14 **A.** Yes, I do.

15 **Q.** All right. Who was responsible for the Johnson Coleman &
16 Stephenson account?

17 **A.** That is an account that me and Mr. Pendergrass decided to
18 try to take fraudulently.

19 **Q.** When you say you guys decided to take it fraudulently,
20 were you working together on this? Was he the lead? Were you
21 the lead? How did it work? What was the arrangement, to your
22 understanding?

23 **A.** So we always worked together. Either someone would do --
24 either I would do the research or he would do the research on
25 the company to see if it was a company that was still in

1 business.

2 Or it would depend on how hard it was to try to locate the
3 person involved with the company. So if it was someone
4 difficult, then we decided to use that company.

5 **Q.** So Page 2 of Exhibit 2, Sonia Johnson and the writing
6 there, do you recognize any handwriting on this particular
7 document?

8 **A.** Yes, I do.

9 **Q.** Tell the jury what you recognize.

10 **A.** I recognize my -- my signature and my handwriting is on
11 the signature and printed name.

12 **Q.** All right. So you signed the name Sonia Johnson?

13 **A.** Yes.

14 **Q.** And you printed the name Sonia Johnson?

15 **A.** Yes, I did.

16 **Q.** What about the writing on the bottom below that?

17 **A.** That is my handwriting as well.

18 **Q.** So on this particular -- do you recall -- what was the
19 fee -- how were you going to split this money from the City of
20 Atlanta? \$8000 -- who would get what?

21 **A.** And so we -- it was still the same split. 33 percent of
22 the money that was obtained. I received 33 percent, and he
23 would receive the rest. Mr. Pendergrass would receive the
24 rest.

25 **Q.** Okay. Is --

1 **A.** And I note that -- so if you notice in the beginning with
2 the Holland & Knight, we had -- the issue with the Holland &
3 Knight with the bank was we were both afraid to drop the check
4 into the bank. Because when I opened the bank account up for
5 Holland & Knight, it didn't match the check. The check said
6 LLLP. I just opened up a regular account, a d/b/a, which was a
7 big red flag. But I kind of sweet talked the lady into --

8 **Q.** Let me stop you there. You are getting into the area of
9 the money from Holland & Knight. So we can discuss that now.

10 **A.** Yeah.

11 **Q.** Did you get the 359,000-dollar check from Holland &
12 Knight?

13 **A.** Yeah. And so yeah. I was just -- okay. Yes, we did.

14 **Q.** Okay. Did it come to a P.O. Box, or how did you get the
15 check?

16 **A.** So that one did not because the -- it was -- I believe it
17 was missing the unit number or something like that. But it got
18 returned.

19 **Q.** So what happened when it was returned?

20 **A.** So when it was returned, I talked to Ms. Booker, who was
21 an employee of the City of Atlanta at the time. And I believe
22 she either sent it back out, or we tracked it down. We went to
23 the post office to try to track down the check. And we ran
24 into the mailman who had the check, and he actually asked us a
25 question.

1 Q. Let me stop you there. You keep saying we.

2 Was Mr. Pendergrass with you when you were tracking down
3 the mailman?

4 A. Absolutely. Yes, sir.

5 Q. And you have a distinct recollection of this?

6 A. Yes.

7 Q. Where did it happen?

8 A. I believe we were in -- we were in Atlanta.

9 Q. Buckhead, Bankhead?

10 A. I believe Atlanta -- Buckhead.

11 Q. All right. So did you get the check?

12 A. We did. He asked us a question of where it was from. And
13 we knew where it was coming from. And then he gave us the
14 check.

15 Q. So what did you do with that check?

16 A. We had the check. I had opened up an account with PNC for
17 that check.

18 Q. So you used your personal name, and you opened up an
19 account?

20 A. Yes.

21 Q. Did you open an account in the name of Holland & Knight
22 or --

23 A. Yes. It was just a d/b/a account.

24 THE COURT: D/b/a?

25 THE WITNESS: Doing business as account.

1 Q. (BY MR. BROWN) Was the check deposited into that account?

2 A. Yes, it was.

3 Q. What happened -- what happened after the check was
4 deposited?

5 A. So the check was deposited into the account, and we were
6 waiting for it to clear. And I ended up moving without
7 Mr. Pendergrass. And I wrote myself a check for 40,000 at my
8 bank, SunTrust Bank.

9 Q. So explain that. You said moving without Mr. Pendergrass.
10 What do you mean by that?

11 A. So we would make decisions together or at least talk about
12 them before we made decisions. And I wasn't supposed to write
13 myself a check that large. But I ended up doing it. And I did
14 it without telling him that I did it.

15 And SunTrust, with the relationship that I had with them,
16 they ended up cashing the check. And then I told him.

17 Q. So you wrote a check for \$40,000, and did you -- were you
18 able to deposit that check?

19 A. Yeah, I deposited the check. And then it cleared. And
20 then I went to the bank in Riverdale, and I pulled out ten
21 grand.

22 Q. All right. So ultimately with this -- I want to show you
23 what has been marked as Government's Exhibit Number 43.

24 Take a look at this. And tell me if you recognize it.

25 A. Yes.

1 Q. So what is it?

2 A. My personal bank account --

3 Q. All right.

4 A. -- and the check that I wrote with the deposit slip.

5 Q. So do those statements appear to be a true and accurate
6 copy of bank records from your account?

7 A. Yes.

8 Q. Any changes, alterations, deletions to these documents
9 that you can see?

10 A. No.

11 MR. BROWN: The Government would move to admit
12 Exhibit Number 43 into evidence, Judge.

13 MS. DURRETT: One second, Your Honor.

14 I have no objection.

15 THE COURT: All right. It is admitted.

16 Q. (BY MR. BROWN) So this is, I think, Page 5 of Exhibit 43.
17 Is this a copy of the check you referred to earlier?

18 A. Yes, it is.

19 Q. Did you sign the name Holland & Knight TM?

20 A. Yes, it is. Yes, I did.

21 Q. So I want to just kind of fast forward. What happened
22 with this -- what happened with this check as relating to you
23 getting in some trouble?

24 A. Okay. So the reason why I jumped back from the other
25 document that we had previously discussed is because the

1 Holland & Knight did not match the account name.

2 And so that is the reason the bank had called -- had
3 called me or we had spoke to the bank at the office. And they
4 were asking questions about the account.

5 **Q.** Let me just stop you there. So --

6 **A.** Okay.

7 **Q.** -- ultimately did you -- were you investigated for deposit
8 account fraud relating to depositing this check into your
9 account?

10 **A.** Yes, I was.

11 **Q.** What happened?

12 **A.** So after I took the ten grand out, I gave Mr. Pendergrass
13 three grand. And they ended up reversing the check that I
14 wrote -- the bad check that I wrote. And then once I did
15 that --

16 THE COURT: Let me just say. We need to stop for a
17 moment for a juror. So let's just hold, and we're going to
18 just wind back in a second.

19 All right. If any of the jurors need to use the
20 facilities, you are welcome to go. We're going to -- I just
21 want to make that possible.

22 MR. BROWN: Your Honor, could I inquire how long you
23 want to go before we break for lunch?

24 THE COURT: I wanted to know what was a good breaking
25 point.

1 MR. BROWN: I mean, now is fine as well. It is fine,
2 Judge.

3 THE COURT: How much more do you have with this
4 witness?

5 MR. BROWN: I have quite a bit with this witness,
6 Judge.

7 THE COURT: Okay. Let's try to go to 12:30 since we
8 began late. And then we'll stop then.

9 MR. BROWN: Okay.

10 **(A brief break was taken at 12:14 P.M.)**

11 MR. BROWN: Your Honor, do we have everyone back?

12 COURTROOM SECURITY OFFICER: Everyone is back.

13 MR. BROWN: Can I continue, Judge?

14 THE COURT: Yes.

15 **Q. (BY MR. BROWN)** So, Mr. McQueen, we left off talking about
16 Holland & Knight and talking about you getting -- were you
17 eventually contacted by the police or the authorities related
18 to your attempt to fraudulently cash or fraudulently withdraw
19 funds from the Holland & Knight account?

20 **A.** We were -- I was contacted by the City of Atlanta. And
21 then also they had claimed that they had Holland & Knight down
22 in the office. And so they wanted me and Mr. Pendergrass to
23 come down and try to straighten it out.

24 **Q.** All right. Did you guys go down there?

25 **A.** No, we didn't.

1 Q. Why not?

2 A. We left it alone.

3 Q. All right. Did there come a point where you owed SunTrust
4 some money for the account -- for the money you withdrew from
5 that 40,000-dollar check?

6 A. Yes. I ended up owing 16 grand to SunTrust.

7 Q. Did you pay SunTrust?

8 A. I did.

9 Q. Why did you pay them?

10 A. They were going to -- they were going to arrest me in
11 Clayton County.

12 Q. All right. Did you speak with an investigator with
13 Clayton County?

14 A. No. I ended up speaking to the bank representative.

15 Q. All right.

16 A. We had a court date in April or May. And then I ended up
17 requesting more time. And so the judge gave me more time to
18 try to pay it off.

19 Q. Was Mr. Pendergrass aware that you were facing possible
20 prosecution related to the Holland & Knight money?

21 A. Yes, he did.

22 Q. How did he know that?

23 A. Because we discussed it. I told him.

24 Q. When Mr. Pendergrass found that out, did he fire you?

25 A. No, he did not.

1 Q. Did he tell you you could no longer work for his company?

2 A. No.

3 Q. Why not?

4 A. He actually came to me and said he had a solution. He was

5 telling me to calm down because I was panicking.

6 Q. And what was Mr. Pendergrass's solution?

7 A. The solution was to -- there was some money owed in the

8 Harris County Tax Assessor, and that is where the Lee Family

9 Trust came up.

10 Q. Okay. Let's hold off on Lee Family Trust. We'll get

11 there eventually.

12 A. Okay.

13 Q. I'll show you what has been marked as Exhibit Number 42.

14 Do you recognize that?

15 A. Yes.

16 Q. What is it?

17 A. It looks like a -- a -- a request -- request receipt from

18 when you go on the IRS.gov and request a taxpayer

19 identification number.

20 Q. And did you request a taxpayer identification number?

21 A. Yes, I did.

22 Q. All right. Is that related to Holland & Knight?

23 A. Yes. I needed that to open up a bank account.

24 MR. BROWN: Any objection to the admission of 42?

25 MS. DURRETT: No.

1 THE COURT: It is admitted.

2 Q. (BY MR. BROWN) So I'm publishing Exhibit Number 42. So
3 is this what you just described as something you requested from
4 the IRS relating to the fraud you were perpetrating relating to
5 Holland & Knight?

6 A. That is correct, yes.

7 Q. And you did this so you can steal the money; is that fair?

8 A. Yeah. I was trying to get it exactly or something with an
9 extension on there. But I couldn't obtain it. So that's the
10 best that I could do.

11 Q. So ultimately you paid the money back to SunTrust;
12 correct?

13 A. Yes. In June.

14 Q. So I'm showing you Exhibit Number 43. That has already
15 been admitted into evidence.

16 Is this a copy of the check or some part of the cashier's
17 check that you paid back to SunTrust?

18 A. That is, yes.

19 Q. Where did you obtain the funds to pay back SunTrust?

20 A. Through a set of checks that we fraudulently obtained from
21 the City of Atlanta.

22 Q. I'm publishing what has already been admitted as Exhibit
23 Number 2.

24 P.O. Box 1809, did you open that P.O. Box?

25 A. No.

1 Q. Whose P.O. Box was that?

2 A. That was Mr. Pendergrass's P.O. Box.

3 Q. Did you have a key to the P.O. Box?

4 A. No, I did not.

5 Q. Why not?

6 A. That was his P.O. Box. I don't know how long he had the
7 P.O. Box. But that was his P.O. Box. So I didn't have a key.

8 Q. Did Mr. Pendergrass have a key to any P.O. Box that you
9 opened for businesses that you were perpetrating a fraud on?

10 A. No.

11 Q. So how would you know -- for example, this 8000-dollar
12 check, how would you know it was mailed to the P.O. Box?

13 A. Mr. -- me and Mr. Pendergrass would travel to the post
14 office.

15 Q. All right. I'm going to show you what has been -- it is
16 Exhibit 2, Page 4.

17 So what are we looking at here, Mr. McQueen? Can you see
18 it?

19 A. Yes. Yes, I can.

20 Q. What is this?

21 A. That is a check we obtained from the City of Atlanta.

22 Q. All right. So was this check mailed to the P.O. Box 1809?

23 A. Yes, it was.

24 Q. Is this -- is this a mail postage meter showing it was
25 mailed on April 5th in, I believe, 2013?

1 MS. DURRETT: Your Honor, I object to the date.

2 **A.** That looks like the date.

3 THE COURT: I'm sorry. Hold off.

4 You object to the date?

5 MS. DURRETT: That's right, Your Honor. The
6 Government is suggesting a certain date, and I don't see that
7 on the envelope that they have got there.

8 MR. BROWN: Your Honor, this exhibit is already in
9 evidence. So my testimony is not evidence, Your Honor.

10 MS. DURRETT: I'm happy to leave the exhibit as it
11 is, Your Honor. Thank you.

12 THE COURT: All right.

13 **Q. (BY MR. BROWN)** Do you see the date --

14 **(Unintelligible cross-talk)**

15 THE COURT: -- date that is referenced by counsel.
16 Counsel's statement is not evidence. Thank you.

17 **Q. (BY MR. BROWN)** Do you see the date on the check,
18 Mr. McQueen?

19 **A.** Yes, I do.

20 **Q.** What date is the check?

21 **A.** It says 4/5/2013.

22 **Q.** Okay.

23 MR. BROWN: Harry, could we switch to the computer,
24 please?

25 COURTROOM DEPUTY CLERK: There you go.

1 MR. BROWN: All right, Mary. You are back on.

2 Could you put up exhibit number -- let me see. Is
3 this in evidence already? 22 in evidence?

4 I don't think so. Do you have 22 marked?

5 COURTROOM DEPUTY CLERK: It should be right up there.
6 22 is not in.

7 MR. BROWN: Your Honor, the Government would move to
8 admit Government's Exhibit 22 into evidence.

9 THE COURT: No objections?

10 MS. DURRETT: No objection, Your Honor.

11 THE COURT: It is admitted.

12 **Q. (BY MR. BROWN)** If we could publish Exhibit Number 22,
13 please.

14 Mr. Pendergrass -- Mr. McQueen, rather, do you recognize
15 this document?

16 **A.** Yes, I do.

17 **Q.** All right. What is it?

18 **A.** It is a document to open up a bank account.

19 **Q.** All right. Did you sign this document?

20 **A.** Yes. My signature is there.

21 **Q.** Did you go with Mr. Pendergrass and Ms. Barber to open
22 this account?

23 **A.** Yes, we did.

24 **Q.** Why did you guys go together?

25 **A.** We wanted to seem more as a company in the bank's eyes.

1 And I knew somebody at the Bank of America or not knew him.

2 But somebody who I want to say I befriended. But I knew him,
3 and he was a nice gentleman. So we went to see him directly.

4 **Q.** So you recall going to the bank with Mr. Pendergrass and
5 Ms. Barber to open this account?

6 **A.** Yes.

7 **Q.** Why did you open the account? What was the purpose of
8 this account?

9 **A.** So it was to -- after the Holland & Knight mistake, we
10 found out that it was easier to deposit checks that were in the
11 business name. And so that was the reason.

12 And once we found -- we found out that the City of Atlanta
13 would cut checks in the name of the business name if you
14 requested it.

15 **Q.** Were you a signer on this account?

16 **A.** Yes.

17 **Q.** Did you have a debit card for this account?

18 **A.** No.

19 **Q.** Did anyone else have a debit card for this account?

20 **A.** Mr. Pendergrass controlled the account.

21 **Q.** Why didn't you get a debit card?

22 **A.** I didn't ask to have one.

23 **Q.** Did Ms. Barber have a debit account for this card?

24 **A.** Not to my knowledge.

25 **Q.** Were funds that were fraudulently obtained from the City

1 of Atlanta deposited into this account?

2 **A.** Yes, they were.

3 **Q.** Let's pull up Exhibit Number 22. Let's pull up Page
4 Number 24, please.

5 So, Mr. McQueen, is this a fraudulently obtained check
6 that was deposited into this Bank of America account that you
7 and Mr. Pendergrass and Ms. Barber controlled?

8 **A.** Yes. If you notice on the check, it has a different title
9 than the other check.

10 **Q.** And the date on this check is different; correct?

11 **A.** Yes. It is 4/17.

12 **Q.** Explain the difference between the check dated 4/5/13 and
13 the check dated 4/27/13.

14 **A.** So once we found out that we could issue the check in our
15 company's name, Mr. Pendergrass and I rolled down to the City
16 of Atlanta requesting that they reissue the checks into our
17 name. So we had to bring the checks back.

18 **Q.** All right. So the check we saw previously dated 4/5, that
19 was mailed to the P.O. Box; correct?

20 **A.** That's correct.

21 **Q.** How did you get this check here dated April 17, 2013?

22 **A.** We had to resubmit. Once we resubmitted, then it was sent
23 back to that P.O. Box.

24 **Q.** So this check was also mailed to the P.O. Box?

25 **A.** That's correct.

1 Q. And you testified you did that because you couldn't
2 deposit the first check because it did not have care of Asset
3 Financial Recovery?

4 A. Even though it had care of, we still couldn't -- it had to
5 be Asset Financial Recovery on the top line. It couldn't be
6 care of.

7 Q. All right. Then going forward, did you and
8 Mr. Pendergrass correct that and make the checks the correct
9 way so you can get the money immediately?

10 A. Yes. That made it -- after the Holland & Knight incident,
11 that made it a lot easier. And instead of opening fraudulent
12 bank accounts with a couple of -- I want to say another one,
13 the Atlanta Quarterback Club, I ended up opening the bank
14 account for that and Mr. Pendergrass made the submission for
15 that one.

16 Q. All right.

17 A. And so instead of doing that, which was more risky at the
18 time, it was just easier to get the check issued in the company
19 name.

20 Q. Now, do you -- did you write checks off of this account
21 that is Exhibit Number 22?

22 A. No. Those -- all the checks were written from
23 Mr. Pendergrass to us.

24 Q. But let's publish Page 25 of the same exhibit, please.
25 Do you recognize this check, Mr. McQueen?

1 **A.** Yes, I do.

2 **Q.** What is the Glenridge Drive Group?

3 **A.** It was another company on this list. Let's see. Yeah.
4 It was another company on that priority list.

5 **Q.** And were these funds lawfully obtained, or were they
6 fraudulently obtained?

7 **A.** They were fraudulently obtained.

8 **Q.** Who fraudulently obtained these funds?

9 **A.** It was me and Mr. Pendergrass.

10 **Q.** Let me show you what has been marked as Exhibit Number 36.

11 **A.** Okay.

12 **Q.** Did you have a chance to review the exhibit?

13 **A.** Yes.

14 **Q.** Do you recognize it?

15 **A.** Yes, I do.

16 **Q.** All right. What is it?

17 **A.** So it is a submission to obtain funds from the
18 Glenridge -- Glenridge Drive Group, and it has a cover page and
19 then the power of attorney page.

20 **Q.** Okay. And does that appear to be a true and accurate copy
21 of the letters and documents in connection with the Glenridge
22 Drive Group?

23 **A.** Repeat the question.

24 **Q.** Does what you are holding in your hand appear to be a true
25 and accurate copy of documents that you used when you were

1 working with Mr. Pendergrass's firm to obtain funds from the
2 Glenridge Drive Group?

3 **A.** Yes.

4 **Q.** Any changes, alterations, deletions that you can see to
5 those documents?

6 **A.** Yes. So it looked like Ms. Barber submitted for this one.
7 So I believe he let her have this. So I didn't get any portion
8 of this.

9 MS. DURRETT: Your Honor, I'll object to about what I
10 believe what happened to money.

11 THE COURT: Why don't we just stop at this point
12 because I had a question about this and something else. So why
13 don't we just stop. And we can talk about it outside the
14 presence of the jury.

15 We'll see you at 1:30. Thank you very much for your
16 patience and your attention.

17 **(The jury exited the courtroom at 12:31 P.M.)**

18 MR. BROWN: You can sit down.

19 Does he need to step out, Judge? Is he excused for
20 lunch as well?

21 THE COURT: Yes. I mean, unless you need to clarify
22 something.

23 MS. DURRETT: No.

24 THE COURT: Please don't discuss your testimony with
25 anyone else. And please be sure to avoid any interface with

1 the jurors. If they are in the bathroom and you need to use
2 it, please leave. And you can use one on any other floor as
3 well as on the floor that the cafeteria is on.

4 MR. BROWN: Judge, what time does he need to be back?

5 THE COURT: 1:30 we're going to start.

6 MR. BROWN: So 1:30, Mr. McQueen.

7 THE WITNESS: Okay.

8 MR. BROWN: Leave that right there. We'll get to it
9 when you get back.

10 **(The witness exited the courtroom.)**

11 THE COURT: Ms. Durrett, what was your concern? When
12 I stopped, you were asking --

13 MS. DURRETT: He --

14 MS. STRICKLAND: He testified that he believed
15 something.

16 MS. DURRETT: Oh, yeah. He said what happened to the
17 money. He said I believe he gave it to Ms. Barber. And that
18 was my objection. It was the speculation about where the money
19 went.

20 THE COURT: All right. Well, maybe when we get
21 back --

22 MR. BROWN: Yes.

23 THE COURT: -- you can clarify that.

24 I was a little bit confused about the Glenridge --
25 the two other things. The Glenridge Drive Group -- I don't see

1 it being mentioned either in the indictment or in the
2 identification of entity -- of transactions that were -- that
3 were intrinsic but collateral.

4 MR. BROWN: It wasn't noticed, Judge. The bank
5 account that we admitted contains -- that is what I was trying
6 to tell you before. The check that is charged was on the next
7 page from the Glenridge Drive Group.

8 So in order for it to be clear, I don't want defense
9 counsel to get up and say, what about the Glenridge Drive
10 Group? Is this fraud?

11 It is so connected. It is the same date. These are
12 all City of Atlanta. Same time frame. These checks are
13 deposited at the same time.

14 So instead of waiting to get them on redirect, I want
15 to deal with these issues now. They are in evidence. It has
16 already been admitted, Your Honor. So that is why I'm trying
17 to move along. I don't want to spend too much time on it.

18 But it is related to the charged counts in the
19 indictment. I mean, they are actually deposited at the same
20 time on the same day. So it is just connected.

21 THE COURT: Well, it is connected, but it wasn't
22 noticed.

23 MR. BROWN: Right. And so what I would say is I'm
24 not trying to pull a fast one on the Court. But my
25 understanding of the law is intrinsic evidence does not have to

1 be noticed. 404(b) evidence should be noticed.

2 So obviously we're not going to mention a conviction.
3 We're not going to mention anything else. But this is
4 intrinsic to the actual charged offense. And therefore you are
5 going to see a lot of this evidence overlapping in the bank
6 accounts in particular, Judge.

7 I can't -- it is part of the bank account records.
8 So you will see these checks deposited altogether. So that is
9 what -- I mean, that is my explanation to the Court.

10 So I'm not trying to be slick. It is just part of
11 the evidence, Your Honor.

12 MS. DURRETT: Your Honor, I mean, I think we've
13 repeatedly stated our objection to all of the extra evidence.
14 And the Government has said they think it is intrinsic. The
15 Court has agreed on some of it. We object to it.

16 I know it is in there now. So I have got to move for
17 a mistrial, I think, based on the fact that he went ahead and
18 did that. But I mean, the Court knows my opinion about this.

19 All of this stuff is show stuff so that they can try
20 to convince the jury that Mr. Pendergrass is a bad person and
21 that they can convict him on charges that they should not have
22 charged the way they did and they regret now.

23 And so he said it. I think there should be a
24 mistrial. And we move on.

25 MR. BROWN: So my response, Your Honor, is if you

1 look at Defendant's Exhibits 11, Defendant's Exhibit -- I don't
2 think her argument -- she is being disingenuous in her
3 argument.

4 11, 15, 17 -- these are all acts that weren't noticed
5 that she wants to admit before the Court. They weren't
6 charged. So how can you have it both ways? How can you argue,
7 one, the Government is being unfair? But then you want to come
8 in on cross and argue these same points and beat the Government
9 over the head with it? That does not seem fair, Judge.

10 MS. DURRETT: Your Honor, I have the opportunity to
11 impeach Mr. McQueen, who did a lot of other extra things. And
12 he is going to admit that he did those things because the one
13 statement that I have for him, even though he met multiple
14 times with the Government, admits to multiple other frauds
15 separate from Mr. McQueen.

16 THE COURT: Well, I understand that. What else are
17 you planning to seek to admit beyond the Glenridge incident
18 that has not been identified for me?

19 MR. BROWN: Defendant's 11, Defendant's 17. What
20 else did the defense have? Defendant's 6. I think that is
21 already admitted. Exhibit 1, Judge. So that is already coming
22 in.

23 MS. DURRETT: What was it? 11, 17, and 6?

24 MR. BROWN: Yeah. But 6 is already in. That is
25 Government's Exhibit Number 1. So not that one.

1 But as it relates to 11, yeah, 17, and --

2 THE COURT: That's defendant's though?

3 MR. BROWN: Yes. Sorry. Defendant's 11,
4 Defendant's 17, Defendant's 15. I mean, so I don't know if the
5 Court -- I think the Court understands my argument.

6 THE COURT: I do. And I'm not going to grant a
7 mistrial on the basis of the Glenridge. But I want to know
8 anything else. I'm not going to -- I mean, it is -- I
9 understand what you are saying. But it is -- why do we have --
10 bother having a notice of other -- of other transactions if --
11 which we have dealt a lot with if then you are going to just
12 suddenly introduce something else?

13 It seems like it is a funky dance step to me.

14 MR. BROWN: Can I explain?

15 THE COURT: Yes.

16 MR. BROWN: It is not a funky dance step, Judge. But
17 let me explain.

18 The reason why we noticed what we noticed is because
19 if you look at the motion we said, listen, we don't believe
20 this is 404(b). We don't believe we even need to let the Court
21 know. But to the extent, we want to put the Court on notice.

22 At the time that the Exhibit Number 22 comes in and
23 other bank records and many records being sought by defense, it
24 is these very same intrinsic acts that are in the record.

25 So I admitted 22. If we go through Exhibit 22, it

1 has checks from Glenridge Group. It has a check from Lydia
2 Walker. It has a check from any number -- am I speaking too
3 fast?

4 COURT REPORTER: Yes.

5 MR. BROWN: So we can just go through it. It is
6 right there, Your Honor. So I don't see how I can avoid
7 talking about things that are in evidence. Defense counsel did
8 not object to the exhibit coming in, Your Honor. It is in.

9 So now I can't talk about it?

10 THE COURT: I'm not going to disallow it. I'm asking
11 you something else.

12 MR. BROWN: Yes.

13 THE COURT: What else is coming?

14 MR. BROWN: The only thing I'm talking about is items
15 that are in the bank records, Judge. I need to explain what
16 they are.

17 I cannot admit five checks that involve
18 Mr. Pendergrass and Mr. McQueen and not explain to the jury and
19 then have defense counsel come in and say, aha, the Government
20 didn't say anything about this, anything about that. It makes
21 me feel like I'm not doing my job.

22 So I don't even know how to dance well. I definitely
23 can't do a funky dance step, Judge. So I'm not trying to do
24 that. I'm merely trying to put the evidence in context with
25 the witness while I have him on direct because this evidence is

1 already in.

2 And just so Your Honor is clear --

3 THE COURT: What else is in that you are saying -- I
4 mean, that you are saying -- I mean, you were introducing that
5 check.

6 MR. BROWN: Right.

7 THE COURT: She didn't object.

8 MR. BROWN: She did not.

9 THE COURT: So I'm not going to grant a mistrial. I
10 mean, I noticed it. But that is not my role.

11 MS. DURRETT: Thank you, Your Honor.

12 THE COURT: But I want to know what else. You don't
13 have to tell me this moment. I think we should take a lunch
14 break. You should think about it and get things together and
15 have a list. And we should be -- just come back here at 20
16 after and deal with it.

17 I didn't understand, I will say to you, the testimony
18 about the Holland & Knight check either. Because this is, you
19 know, according to your records something like \$250,000. So he
20 says I paid them back with \$16,000, that is what was due.

21 And I didn't understand that at all. I mean, one or
22 the other of you can cross-examine him.

23 MR. BROWN: Sure. But I'll clear it up. I mean, the
24 short answer is he deposited the money. He withdrew the
25 40,000 -- he tried to deposit it really quickly, and the bank

1 grabbed the rest back before he could get it.

2 So the only thing he owed out of his pocket was
3 \$16,000 before they could claw back all the money. But that is
4 the answer, Judge.

5 THE COURT: I think you ought to clarify that.

6 MR. BROWN: Yes, I'll clarify that.

7 MS. DURRETT: And, Your Honor, we would just ask that
8 the Glenridge Drive Group be added to our intrinsic
9 instruction.

10 THE COURT: Okay. I'll give another instruction at
11 the conclusion of his testimony.

12 MS. DURRETT: Thank you.

13 THE COURT: Do you want me to do it with the -- at
14 the conclusion -- right when we start? I will be happy to do
15 that.

16 MS. DURRETT: I do, Your Honor.

17 Again, I want that stipulation read, Your Honor,
18 because they went through and said Mr. Pendergrass signed some
19 of these documents.

20 THE COURT: You can do it at an appropriate time, but
21 it is not part of -- if you -- if you decide that you are
22 trying to seek to introduce it at the time of your
23 cross-examination of this witness, you can. Or you can do it
24 at the beginning of your case.

25 MS. DURRETT: Thank you.

1 THE COURT: But you cannot do it while just
2 interrupting.

3 MR. BROWN: Just to be clear, the Court has ruled on
4 that? You are going to allow her --

5 THE COURT: Yes, I am.

6 MS. DURRETT: And so, Your Honor, I'll just say: I
7 do want to do it. I'll do it right at the beginning when I
8 start to cross-examine him.

9 Do you want me to read it, or will you read it?

10 THE COURT: No. It is yours.

11 MS. DURRETT: Thank you.

12 MR. BROWN: All right. Thank you, Judge.

13 Can we be excused until 1:20?

14 THE COURT: Yes. Thank you.

15 MS. DURRETT: And, Your Honor, can I put it up on the
16 screen when I read it?

17 THE COURT: As long as it is the right one.

18 MS. DURRETT: The one you emailed us?

19 THE COURT: Yes.

20 MS. DURRETT: Thank you.

21 THE COURT: Please don't put up the email.

22 MS. DURRETT: I mean, I'm just going to cut the text.
23 Right? Is that what you want?

24 THE COURT: Yes. Okay.

25 **(A lunch break was taken.)**

1 THE COURT: So tell me where the exhibit number of
2 the checks or other matters that you -- I mean, you went
3 through some of the ones that the defendants which -- that you
4 plan to go over, which sort of seems maybe like it is
5 preemptive.

6 MR. BROWN: Right.

7 THE COURT: But you want to address it in the direct
8 rather than in redirect.

9 MR. BROWN: Yes.

10 THE COURT: And is there anything else? Because
11 nothing else was new other than the one that I flagged.

12 MR. BROWN: Yes, Judge. I would just direct your
13 attention to the exhibit -- my exhibit list.

14 Did you get the addition starting with Exhibit
15 Number 31, Judge? It should be stapled to your --

16 COURTROOM DEPUTY CLERK: It was right there. And I
17 put it behind -- well, I stapled it together. 31 starts on the
18 back.

19 THE COURT: Okay.

20 MR. BROWN: So the Court asked me to give you some
21 heads-up to where I'm going. So Exhibit Number 34 is Roshaunta
22 Redmond. I can't recall if that is a defense exhibit or not.
23 I believe it is.

24 But there is a check deposited from the City of
25 Atlanta into the account that is admitted into evidence.

1 THE COURT: Is that one of yours?

2 MS. DURRETT: It is one of ours because -- yep, it is
3 one of ours.

4 MR. BROWN: So that is one of theirs. Then the Fryer
5 law firm, Number 35, I believe is also a defense exhibit, Your
6 Honor, as well.

7 MS. DURRETT: It is.

8 MR. BROWN: We already talked about 36.

9 37, Lydia Walker. I don't believe that is a defense
10 exhibit. But we just admitted Exhibit Number 22 into evidence.
11 And there is a check -- a Lydia Walker check deposited with the
12 Sonia -- the check that was supposedly signed for the Johnson
13 law firm. And --

14 THE COURT: That is relating to the Johnson law firm
15 one? Is that what you are saying?

16 MR. BROWN: It is not related. These checks were
17 deposited in the same account. So the Johnson Coleman &
18 Stephenson law firm check that is a charged count in the
19 indictment, the next check after that is the Glenridge Group.
20 And then within that, two checks from that is a Lydia Walker
21 check.

22 So it is a check from the City of Atlanta. I just
23 want to cover that to explain who is involved in that. It is
24 deposited at the same time as the Johnson Coleman & Stephenson
25 check, Judge.

1 Greg Hickman, Your Honor, is a defense exhibit. That
2 is Exhibit Number 38.

3 Exhibit 39 Michael Burandt is also a defense exhibit,
4 Your Honor.

5 41 is also a defense exhibit.

6 And that is all I plan to try to admit into evidence.
7 But there may be additional checks, Your Honor, within the bank
8 records themselves. But that is my list, Your Honor. And I
9 would only --

10 THE COURT: What is the letter to the Escambia County
11 Tax Collector?

12 MR. BROWN: That is a defense exhibit as well, Your
13 Honor --

14 THE COURT: Okay.

15 MR. BROWN: -- relating to the conduct done by
16 Mr. McQueen.

17 THE COURT: Anything you want to say about the
18 Hickman or Walker checks?

19 MS. DURRETT: There is, Your Honor.

20 So I want -- can I say a couple of things? One is we
21 would object to Walker because obviously we're not on notice of
22 that. We would object -- and the Government has suggested
23 somehow that we're going to use exhibits -- we provided them
24 because they have given us some notice in discovery about these
25 exhibits. So we put them in our notebook in case we needed to

1 use them.

2 So the suggestion that that is a defense exhibit is
3 misleading because we certainly haven't moved to admit those
4 exhibits. So we would argue -- you know, he can correct -- we
5 would like him to correct the Glenridge Drive issue, which is
6 he doesn't know where the money went.

7 THE COURT: He said he is going to do that.

8 MR. BROWN: Your Honor, I want you to know the
9 witness is here.

10 THE COURT: I think he needs to leave.

11 MR. BROWN: I was just going to let you know. Sorry.

12 THE WITNESS: They called me. So I wasn't sure.

13 MR. BROWN: I apologize.

14 THE COURT: Yeah. I think he thought you were just
15 going to be brought back there.

16 MR. BROWN: Sorry about that.

17 So, Mr. McQueen, if you would wait outside the door.

18 THE WITNESS: Okay.

19 THE COURT: I'm sorry to add to your walking.

20 **(The witness exited the courtroom.)**

21 MS. DURRETT: So we would argue that he should
22 correct the statement about the Glenridge Drive Group, that the
23 Government not be permitted to argue that in closing or send
24 those documents back because we didn't get notice about it.

25 Just because they are saying we have talked about it

1 doesn't mean that we were going to admit it or do anything with
2 it. And I think the statement was misleading.

3 But particularly with Lydia Walker, that is not
4 something that we have as an exhibit or that we were on notice
5 about.

6 THE COURT: You --

7 MS. DURRETT: I'm sorry?

8 THE COURT: You weren't provided it during discovery?

9 MS. DURRETT: We were provided it, but there was
10 nothing in the bill of particulars about that or in the
11 indictment about that. And it wasn't in the Government's
12 404(b) notice or intrinsic act notice.

13 THE COURT: Did you think -- what was your response
14 to -- just more generally speaking to the contention that they
15 don't -- that they are not required to give you notice of
16 intrinsic evidence?

17 MS. DURRETT: Well, I think that is why we had a
18 hearing on it and we filed several motions about it, Your
19 Honor. I don't think --

20 THE COURT: Well, I think that his explanation was in
21 case you don't think it is intrinsic evidence -- we're
22 basically having a safety valve for ourselves. Consider it as
23 404(b). We don't want to end up being in a position where we
24 don't get it considered. So --

25 MS. DURRETT: Again, I'll point the Court to the bill

1 of particulars in this case, which does not mention Walker or
2 Glenridge Drive or any of those other things, Hickman.

3 THE COURT: Is there something in particular about
4 Lydia Walker's matter though -- the check that you -- that you
5 are concerned about? Because you said in particular.

6 MS. DURRETT: Just in particular that that was one I
7 hadn't heard of. I had at least heard about some of the other
8 ones. I'm not saying they didn't provide it in discovery. But
9 there has been no prior discussion of that to my knowledge.

10 THE COURT: What about the ones that he indicated
11 that you had marked? Are you -- you weren't really planning to
12 introduce those?

13 MS. DURRETT: Well, Your Honor, I had them ready in
14 case I needed to talk about them. I don't mind if they talk
15 about the Fryer check and the Redmond check, if that is what
16 they want to do.

17 But like Greg Hickman, we weren't on notice about
18 that one. The Michael Burandt --

19 THE COURT: He says that you -- the Greg Hickman one
20 that you had indicated you might introduce, that they were on
21 your list.

22 MS. DURRETT: I have exhibits, but I don't have to
23 introduce those exhibits.

24 THE COURT: I understand you don't have to. But --
25 all right.

1 MR. BROWN: Judge, could I say something? I don't
2 want to cut you off.

3 THE COURT: That's all right.

4 MR. BROWN: I just want to say I think counsel's
5 argue is disingenuous. She noticed exhibits, provided them to
6 the Government. Yes, she may not -- she doesn't have to
7 introduce them. But I think it is a pretty good indication
8 when you give the Court and the Government your exhibit list
9 with those exhibits in there that you could possibly mention
10 those.

11 So all the Government is doing, Your Honor, as you
12 indicated when you came on the bench, is really getting in
13 front of some of the issues that would lead the defense -- and
14 the defendant can't control the Government's introduction of
15 evidence.

16 So look at Exhibit Number 22, Judge. It has already
17 been admitted into evidence. 22, Page 31 is a check from Lydia
18 Walker. It is in evidence. She didn't object to it. So now
19 she is saying I can't argue about it but it is already in
20 evidence?

21 I mean, I think I should be able to put on my case
22 and put on the evidence that is even in evidence, Your Honor.
23 Page 22 --

24 THE COURT: I'm sorry. 22?

25 MR. BROWN: Exhibit 22 --

1 THE COURT: You told me that 37, which is Ms. Walker,
2 not -- and you are saying 22 is also?

3 MR. BROWN: No. I'm saying it is -- Government's
4 Exhibit Number 22, Page 31 is the check to Lydia Walker to
5 Asset Financial Recovery. It is already in evidence. This is
6 discovery that has been provided to defense counsel for several
7 years. It is not a surprise. It is in evidence, Your Honor.

8 And more importantly than that, this particular check
9 was deposited in the same very account that a check of
10 Ms. Sonia -- I mean, the Stephenson -- Johnson Stephenson
11 Coleman. It is related, Judge.

12 THE COURT: I'm going to allow the Walker matter.

13 MS. DURRETT: Your Honor, I would just say: Even
14 though the check is in the bank records, it doesn't mean that
15 someone has to testify about them. I mean --

16 THE COURT: Well, I think they are allowed to put on
17 their case in that way.

18 MS. DURRETT: Thank you, Your Honor.

19 THE COURT: But let me just say: Are you-all
20 really -- is the Escambia County Tax Collector, which -- is
21 that something you wanted to introduce?

22 MS. DURRETT: It is because Mr. McQueen did that on
23 his own.

24 THE COURT: And the same thing as to Pensacola Ice
25 Pilots? You are going to be introducing that?

1 MS. DURRETT: Yes.

2 THE COURT: I mean, I would give an instruction again
3 about their not -- making sure they understand that this is not
4 actually the charged conduct.

5 And you are also going to clarify at some point in
6 his direct examination the 250,000 -- this business about the
7 16,000 and \$250,000?

8 MR. BROWN: Yes. I'll clear that up, Judge.

9 THE COURT: Okay. And if it was his personal
10 account, then I just want to make sure that they understand
11 that it is his personal account that he was dealing with.

12 MR. BROWN: He testified to such, Your Honor.

13 THE COURT: I know. But if he goes back to it, I
14 want to make sure.

15 MR. BROWN: We'll go over it again.

16 MS. DURRETT: Thank you, Your Honor.

17 THE COURT: Okay.

18 MS. DURRETT: I provided the Court and the Government
19 with a copy of the stipulation that I would want to show.

20 THE COURT: That is fine.

21 **(A discussion ensued off the record.)**

22 THE COURT: All right. Do you want to get your
23 witness back?

24 MR. BROWN: Yes, Judge.

25 THE COURT: Have a seat.

1 **(The jury entered the courtroom at 1:40 P.M.)**

2 THE COURT: Have a seat.

3 MR. BROWN: Can I continue, Judge?

4 THE COURT: Yes, you can.

5 **Q. (BY MR. BROWN)** Mr. McQueen, you are still under oath.

6 When we left off, we were discussing two things. I want
7 to back up just a little bit and see if we can clarify in
8 relation to Holland & Knight.

9 Can you explain for the jury how much money was deposited
10 from the Holland & Knight recovery effort into your account?

11 THE COURT: By your account, meaning his personal
12 account?

13 MR. BROWN: Right. Or strike that question. Let me
14 ask a better question.

15 **Q. (BY MR. BROWN)** Did you obtain the Holland & Knight check
16 from the City of Atlanta?

17 **A.** Yes.

18 **Q.** Did it come to a P.O. Box that you controlled?

19 **A.** No, it did not.

20 **Q.** Where was it delivered?

21 **A.** That check wasn't delivered.

22 **Q.** How did you obtain that check?

23 **A.** We called to inquire about the check.

24 **Q.** So let me stop you. You explained meeting the post office
25 person to get that check; is that correct?

1 **A.** Yes.

2 **Q.** So once you obtained that check, what did you do with it?

3 **A.** We had the check, and then we were trying to decide, me
4 and Mr. Pendergrass, on what bank we were going to deposit it
5 into because there was a couple of PNC locations.

6 **Q.** And to which account did you deposit the check?

7 **A.** I deposited that check into the PNC business account that
8 I opened.

9 **Q.** And what was -- you opened the business account. What was
10 the name of the account?

11 **A.** Holland & Knight.

12 **Q.** Was it a d/b/a?

13 **A.** Yes, it was.

14 **Q.** D/b/a Terrell McQueen?

15 **A.** Yes.

16 **Q.** Okay.

17 THE COURT: D/b/a meaning doing business as?

18 THE WITNESS: Yes.

19 **Q.** **(BY MR. BROWN)** And just explain in plain terms when the
20 check hit your account what happened.

21 **A.** When the check hit the account, I got the receipt. And we
22 waited for it to be cleared from the bank.

23 **Q.** When you say we, who is we?

24 **A.** Me and Mr. Pendergrass.

25 **Q.** Did the check eventually clear?

1 **A.** No, it did not. But I remember writing myself that
2 40,000-dollar check. And when that check cleared, I thought
3 everything was good -- good to go.

4 **Q.** So it has already been admitted into evidence, Exhibit
5 Number 43, the 40,000-dollar check you are referring to is what
6 is published on the screen; is that correct?

7 THE COURT: There is nothing on the screen.

8 MR. BROWN: I'm sorry. Harry, can you turn that on?
9 I apologize.

10 Moving too fast.

11 **Q.** **(BY MR. BROWN)** All right. So is that the 40,000-dollar
12 check you are referring to?

13 **A.** Yes, it is.

14 **Q.** So you deposited the check from Holland & Knight into the
15 account, and then you wrote a check off of that account for
16 \$40,000; is that right?

17 **A.** That's correct.

18 **Q.** And you deposited this check into which account? The
19 check here, is this into your personal account?

20 **A.** I deposited it into my SunTrust personal account.

21 **Q.** So on Page 1, you deposit it into this account right here;
22 correct?

23 **A.** Yes.

24 **Q.** And then what happened after that -- after you did that
25 deposit?

1 **A.** I thought that it would take a couple of days to clear.
2 But they ended up clearing it the next day.

3 **Q.** So explain for the jury out of that \$359,000 deposited
4 into that Holland & Knight d/b/a, doing business as, Terrell
5 McQueen account, how much of that you kept and how much of that
6 was actually taken back by the bank. Explain that.

7 **A.** Okay. So once I figured -- well, once the check was
8 cleared, the 40,000, I thought everything was okay at the
9 business account. And then I ended up just transferring some
10 money between accounts. And I ended up taking ten grand out of
11 a SunTrust branch.

12 And out of that ten grand, I gave Mr. Pendergrass 3 grand
13 and then I wrote him another check for 23 -- 23 grand. Or I
14 don't remember the amount.

15 **Q.** So after you made those transactions, did something happen
16 with the account such that the money was taken out of the
17 account?

18 **A.** Yes. And so PNC Bank and -- had called me and inquired
19 about the check. And I don't remember the conversation. But I
20 know it was about the check. And then they told me to call
21 City of Atlanta to try to explain the check.

22 And so I remember having the City of Atlanta on speaker,
23 and we were listening to them about the check. And then they
24 wanted us to come -- they wanted me to come down to straighten
25 it out. And they were claiming that Holland & Knight was down

1 at their office.

2 Q. Let me stop you there. You thought that was a ruse? Did
3 you think you were going to get arrested?

4 A. Yes.

5 Q. Is that why you didn't go?

6 A. Yeah. We couldn't go. Yeah. No.

7 Q. So when you are listening to the City of Atlanta on the
8 speakerphone, is Mr. Pendergrass with you?

9 A. Yes.

10 Q. So ultimately you were owed -- you owed SunTrust 16,000
11 approximate dollars out of that 360 because the other was
12 clawed back; is that right?

13 A. When you say clawed --

14 Q. I mean, they took it back. You didn't get the money.

15 A. Yeah. So the money I spent -- the transaction -- after --
16 the ten grand I took out cash at SunTrust. And then the other
17 was just general transactions from my personal card.

18 Q. Okay. So, again, this is Exhibit Number 43. This is a
19 cashier's check for \$16,452.59.

20 This is a cashier's check you used to pay back SunTrust
21 for the money you spent out of that \$359,000 approximately; is
22 that correct?

23 A. That's correct.

24 Q. All right. So when we broke for lunch, we were talking
25 about the Glenridge Group.

1 Do you recall that?

2 **A.** Yes.

3 **Q.** So let me approach you again. Let me show you what has
4 been marked as Government's Exhibit 36.

5 **A.** Yeah. I have it here.

6 **Q.** So do you recognize the exhibit?

7 **A.** Yes.

8 **Q.** How are you able to recognize the exhibit?

9 **A.** It was one of the companies that we were -- me and
10 Mr. Pendergrass were trying to go for that the individual could
11 not be located.

12 **Q.** All right. So is Exhibit Number 36 a true and accurate
13 copy of records that you and Mr. Pendergrass kept in your
14 office relating to this account?

15 **A.** Yes.

16 **Q.** All right. Have there been any changes or alterations or
17 deletions to the documents contained within Exhibit 36?

18 **A.** Not to my knowledge.

19 THE COURT: It is not really -- is it 36 is the
20 number, or is it 36 of some other number?

21 MR. BROWN: No, Your Honor. It is just 36. It is
22 Government's Exhibit Number 36.

23 Your Honor, if you will recall this morning, I gave
24 you a packet of 31 through 44. And they should be right up
25 there, Judge.

1 So at this time, the Government would move 36 into
2 evidence.

3 MS. DURRETT: Your Honor, we object. He said this
4 was a company he was going after, but he didn't sign this or it
5 doesn't look like it. Maybe he did sign the letter. But it is
6 not his name on the letter.

7 THE COURT: You have actual personal familiarity with
8 this document, and did you sign it or not?

9 THE WITNESS: So I didn't sign the cover page. But
10 on the second page, I do recognize my handwriting.

11 THE COURT: Which one is your handwriting on the
12 second page?

13 THE WITNESS: Where it says acknowledgment of notary
14 public, the Georgia, Fulton, 1st April 2013, is my handwriting.
15 And it looks like -- the David C. Simpson looks like it is my
16 handwriting as well.

17 THE COURT: What familiarity do you have with the
18 first page?

19 THE WITNESS: The first page?

20 THE COURT: Yeah. You say you have familiarity with
21 this page -- the particular -- do you have the exhibit in front
22 of you?

23 THE WITNESS: This here? You are talking about this
24 page?

25 THE COURT: I understand. The one with the notary

1 seal you are saying you have familiarity with this. This looks
2 like your signature?

3 THE WITNESS: Yes. So the signature down at the
4 bottom was lifted.

5 THE COURT: Right. And you have a familiarity with
6 that because you said it looks like your handwriting even
7 though it is not your name; right?

8 THE WITNESS: Right, that is my handwriting below
9 acknowledgment.

10 THE COURT: And I'm asking you: On the first page of
11 this exhibit, which you were also asked about -- not that page.
12 I mean, this one that looks like this? Yeah.

13 THE WITNESS: I'm sorry. I can't see.

14 The cover page, yeah.

15 THE COURT: What actual familiarity do you have with
16 this page, if any?

17 THE WITNESS: So we were preparing this document, and
18 Mr. Pendergrass made the decision to give this to his
19 girlfriend.

20 THE COURT: The letter?

21 MR. BROWN: Your Honor, could I ask some questions?

22 THE COURT: Yes.

23 **Q. (BY MR. BROWN)** Mr. McQueen, are you familiar with the
24 first page of Government's Exhibit Number 36? Have you seen it
25 before?

1 **A.** Yes.

2 **Q.** All right. Did you work on it with Mr. McQueen -- with
3 Mr. Pendergrass and with Ms. Deidre Barber?

4 **A.** Yes.

5 **Q.** Was this an account you were all working on together?

6 **A.** Yes.

7 MR. BROWN: He has laid a sufficient foundation, Your
8 Honor.

9 MS. DURRETT: I don't object, Your Honor.

10 THE COURT: What?

11 MS. DURRETT: I don't object.

12 THE COURT: All right. Fine.

13 MR. BROWN: Is it admitted, Judge?

14 THE COURT: It is admitted.

15 MR. BROWN: Thank you, Judge.

16 **Q.** **(BY MR. BROWN)** I am going to publish Exhibit Number 36.
17 Mr. McQueen, who is Deidre Barber?

18 I think we talked about her before. But what was her
19 involvement in the business?

20 **A.** She was supposed to do skip tracing, which is the process
21 of locating people. And then she was supposed to mail letters
22 out from the holders once we got the information.

23 **Q.** So as demonstrated in Exhibit Number 36, did she also work
24 with you and Mr. Pendergrass on recovering assets as well
25 sometimes?

1 **A.** Yes. Sometimes. Yes.

2 **Q.** So on Page 2 of the exhibit, I think you have already
3 described to the Judge but I want you to show the jury: Who
4 signed David Simpson and who printed David Simpson as best you
5 can tell, if you can tell at all?

6 **A.** I recognize this as Mr. Pendergrass's handwriting.

7 **Q.** Which one?

8 **A.** The David C. Simpson.

9 **Q.** All right. How can you --

10 **A.** The signature.

11 **Q.** All right. How do you recognize that as Mr. Pendergrass's
12 handwriting?

13 **A.** The way he writes his Ds and Cs and Ss are a particular
14 standard.

15 **Q.** What about when it says print name do you recognize the
16 printing of the name there? Whose handwriting is that?

17 Or if you can't recognize it, you can't recognize it. It
18 is fine.

19 **A.** I don't know his handwriting, but I know the way he signs.

20 **Q.** And then below acknowledgment of notary public, Georgia,
21 Fulton, do you recognize who may have printed those words?

22 **A.** Yeah. That looks like my handwriting.

23 **Q.** Exhibit Number 36, Page 3 is a business card.

24 You can look at the screen, Mr. McQueen. It may be
25 faster.

1 Do you know who created this business card?

2 **A.** Yes. I created that business card.

3 **Q.** Did you create a lot of the business cards that were used
4 for forged notaries and forged powers of attorneys?

5 **A.** Yes, I did.

6 **Q.** I'm putting up Exhibit Number 36. It is hard to see.

7 Can you see that check, Mr. McQueen?

8 **A.** Yes.

9 **Q.** What is that check?

10 **A.** It says Asset Financial Recovery, care of Glenridge Drive
11 Group.

12 **Q.** As a part of the business that you and Mr. Pendergrass
13 were operating, did you keep records of checks when they came
14 in or who kept records of checks when they came in?

15 **A.** Mr. Pendergrass.

16 **Q.** How do you know that?

17 **A.** There was a filing system.

18 **Q.** All right. Did you see with your own eyes Mr. Pendergrass
19 doing the filing system and filing this information?

20 **A.** Yes. There was white envelopes. And in those envelopes,
21 there were like multicolored plastic folders.

22 **Q.** Okay. And was that the kind of system that
23 Mr. Pendergrass used to keep track of money -- the letters
24 going out and information coming back in to the business?

25 **A.** Yeah. When they were paid, yes. He would make a copy of

1 everything and then store it in those folders.

2 Q. And ultimately was this check deposited into an account at
3 Bank of America?

4 A. Yes, it was.

5 Q. And this is Exhibit Number 36 still on the screen. Is
6 this another shot of ZOHO, of the system you guys used to keep
7 track of various accounts?

8 A. Yes.

9 Q. So if you look on the right of that where my finger is, it
10 says Shawn McQueen on 3/9/23 {sic}. It says 1:14 A.M.

11 Is that -- do you work that late at night or morning,
12 rather?

13 A. I may have made some notes on that and --

14 Q. Then I'm looking at the bottom of the actual document. It
15 says Allen Pendergrass, Thursday, March 21st, 2013. It says
16 called and left message for David Simpson.

17 Do you know what those notes would indicate?

18 A. Yeah. It may indicate that he tried to reach David
19 Simpson.

20 Q. And did you actually reach David Simpson?

21 A. Not that I can recall, no.

22 Q. And you have already testified this is not David Simpson's
23 signature; correct?

24 A. That's correct.

25 Q. This is a forged limited power of attorney?

1 **A.** That's correct.

2 **Q.** I want to publish what has already been admitted into
3 evidence as Government's Exhibit Number 22.

4 What are we looking at here, Mr. McQueen?

5 **A.** It looks like the reissued check under Asset Financial
6 Recovery.

7 **Q.** Does this document reflect that this check was deposited
8 into the Bank of America account?

9 **A.** Yes.

10 **Q.** How was the money disbursed? For example, that \$4900 that
11 you received into an account that both you, Ms. Barber, and
12 Mr. Pendergrass controlled, how was the money divided up?

13 **A.** I don't know how he -- Mr. Pendergrass and Deidre divided
14 up this money. I didn't receive any of this money.

15 **Q.** Okay. I'm showing you what has already been admitted as
16 Exhibit 22. Before lunch, you testified relating to your
17 involvement with this account and going into the bank and
18 having the account open.

19 Is that correct?

20 **A.** That's correct.

21 **Q.** And do you know if this was the account in which the
22 Glenridge Drive Group check, as well as the check related to
23 the Stephenson Coleman & Johnson or the law firm check was
24 deposited into?

25 **A.** Yes, it was.

1 Q. Did you receive proceeds from the 8000-dollar check
2 related to Stephenson Coleman & Johnson?

3 A. Yes.

4 Q. Relating to this account, who was in charge of writing
5 checks out of this account based on your knowledge?

6 A. Mr. Pendergrass was.

7 Q. So I'm showing you a page from Exhibit Number 22, the same
8 account.

9 Do you recognize Lydia Walker?

10 A. Yes, I do.

11 Q. How do you recognize that check?

12 A. That was another fraudulent account that we worked on.

13 Q. And who is we?

14 A. Me and Mr. Pendergrass.

15 Q. I'm handing you what has been marked as Exhibit Number 27.
16 Please take a look at it.

17 When you are finished looking at it, please look back at
18 me and I'll ask you some questions.

19 A. Okay.

20 Q. Do you recognize the documents contained in Exhibit
21 Number 37?

22 A. I do.

23 Q. How do you recognize them?

24 A. This was one of the individuals that was difficult to
25 find.

1 Q. Who worked on this particular matter?

2 A. We worked together in a group, me and Mr. Pendergrass and
3 Mr. Fitchpatric.

4 Q. Do the documents contained in Exhibit Number 37 appear to
5 be true and accurate copies of documents on which you worked
6 while employed with Mr. Pendergrass?

7 A. Yes.

8 Q. Have there been any changes or alterations or deletions to
9 this document or these documents that you can see?

10 A. No.

11 MR. BROWN: The Government would move to admit 37
12 into evidence, Judge.

13 MS. DURRETT: No objection, Your Honor.

14 THE COURT: Admitted.

15 Q. (BY MR. BROWN) So, Mr. McQueen, I'll direct you to the
16 screen.

17 Who signed -- did you sign this document on the first page
18 of the exhibit?

19 A. Yes, that is my signature on the first page.

20 Q. You testified that Ms. Walker was difficult to track down.
21 Explain that.

22 A. During the skip tracing process, there were multiple Lydia
23 Walkers. And yeah, she was difficult to find.

24 Q. All right. Did you, in fact, locate Lydia Walker?

25 A. No.

1 Q. I want to show you Page 3 of the document. Do you see
2 that ID?

3 A. Yes.

4 Q. What is this?

5 A. So the ID was taken -- it was either from Mr.
6 Pendergrass's old database, or there were a couple of old
7 licenses within his office, and so this ID looks altered.

8 Q. I know we can't see the face.

9 So did you, in fact, talk to Ms. Walker and locate her?

10 A. No.

11 Q. Do you know if Mr. Pendergrass or anyone else in your
12 office located Ms. Walker?

13 A. No.

14 Q. Looking at Page 2 of Exhibit Number 37, do you recognize
15 any handwriting on the bottom of this document?

16 A. Yes.

17 Q. Which handwriting do you recognize?

18 A. So the acknowledgment of notary public, the Georgia,
19 Dekalb, 15th of April 2013, and the Lydia Walker written is my
20 handwriting.

21 Q. Do you recognize the signature of the print name?

22 A. No, I do not.

23 Q. What about the signature for the notary?

24 A. It looks like it was lifted.

25 Q. And when you say lifted, what do you mean by lifted?

1 **A.** It was photoshopped.

2 **Q.** Is this photoshopped from documents -- legal documents?

3 MS. DURRETT: Objection, Your Honor. He doesn't
4 know. He said it looks like it was lifted.

5 THE COURT: Be sure to --

6 MR. BROWN: I'll clean it up, Judge.

7 THE COURT: All right.

8 **Q.** **(BY MR. BROWN)** Do you --

9 THE COURT: Sir, would you make sure that you testify
10 just based on your personal knowledge, not based on any
11 conjecture or supposition.

12 THE WITNESS: Yes, Your Honor.

13 **Q.** **(BY MR. BROWN)** So, Mr. McQueen, if you don't know, just
14 say, I don't know. It is a perfectly fine answer.

15 **A.** Okay.

16 **Q.** So do you know about the signature, either the notary, or
17 the notary seal itself -- do you know anything about the
18 signature and/or the notary?

19 **A.** Yes.

20 **Q.** What do you know?

21 **A.** It was photoshopped.

22 **Q.** How do you know that?

23 **A.** Because I sent the information between myself or
24 Mr. Fitchpatric or Mr. Pendergrass on what notaries --

25 MS. DURRETT: Your Honor, is he talking about this

1 specific document?

2 MR. BROWN: Yes.

3 THE COURT: That is the way I understand his
4 testimony.

5 MS. DURRETT: Okay.

6 **Q. (BY MR. BROWN)** Continue.

7 **A.** So we would -- we would work on talking about using
8 signatures or notaries that we did not see previously.

9 **Q.** Why did you talk about that? Why were you using notaries
10 you haven't seen previously?

11 **A.** Because we didn't want -- we wanted it to look more
12 authentic.

13 **Q.** Let's shift gears a little bit.

14 Could we publish Exhibit Number 3, please. It has already
15 been admitted into evidence.

16 Mr. McQueen, do you recognize this document?

17 **A.** Yes, I do.

18 **Q.** So tell the jury how you became -- how you came to send
19 this letter to the City of Atlanta for the Georgia Municipal
20 Association.

21 **A.** This was another name on the particular list that we were
22 looking at. And me and Mr. Pendergrass was not sure on which
23 payees the City of Atlanta would pay out.

24 And so we submitted -- we made a submission of two or
25 three documents to see which one they would actually pay out.

1 Q. Is this one of the documents you submitted?

2 A. Yes, it was.

3 Q. Is that your signature there above Terrell McQueen?

4 A. Yes, it is.

5 Q. All right. Let's go to the second page, please, of this
6 exhibit.

7 Do you recognize this document, Mr. McQueen?

8 A. Yes, I do.

9 Q. What do you recognize about this document?

10 A. I recognize the entire document.

11 Q. All right. So let's start with the signature of Lou
12 Comer.

13 Did Lou Comer sign that document?

14 A. No, she did not.

15 Q. How do you know?

16 A. Because that signature was taken off of a signature of a
17 document on the internet.

18 Q. Did you locate that document on the internet?

19 A. I did.

20 Q. Was Lou Comer someone employed by the Georgia Municipal
21 Association?

22 A. Yes, she was.

23 Q. And you searched information online; is that correct?

24 A. That's correct.

25 Q. What about the seal? Where did you obtain the seal?

1 **A.** I located the seal from a document that was on a previous
2 document online from the Georgia Municipal Association.

3 **Q.** All right. And do you recognize any of the handwriting
4 below acknowledgment of notary public?

5 **A.** Yes. The Georgia, Fulton, the April, and the Lou Comer is
6 my handwriting.

7 **Q.** What about the Karen Michelle Smith, the signature of the
8 notary?

9 **A.** That is her signature, but it is not her signature. It is
10 another photocopy -- photoshopped signature and seal.

11 **Q.** Okay. Can we go to Page 3 of this exhibit, please?
12 Who created this card, Mr. McQueen?

13 **A.** I created the card.

14 **Q.** Why did you create these business cards?

15 **A.** So if we submitted for -- Mr. Pendergrass told me if you
16 submitted for an individual, you would have to submit an ID or
17 some document showing that that individual was the individual
18 indeed. If you submitted for a business, the only requirement
19 for a business was a business card.

20 **Q.** Okay. Can you explain the telephone number and the fax?
21 Are those real telephone numbers and the real fax number?

22 **A.** I don't remember the fax number. The phone number was a
23 recorded phone number. So it wasn't a real phone number.

24 **Q.** And why did you -- who obtained the phone number here?

25 **A.** I bought a phone from -- a burner phone from Walmart.

1 Q. Did Mr. Pendergrass have knowledge of you buying burner
2 phones from Walmart?

3 A. Yes, he did.

4 Q. How?

5 A. We would usually go to Walmart to buy phones.

6 Q. Would you buy more than one phone to use for different
7 recovery attempts?

8 A. Yes.

9 Q. Can we go to Page 7 -- actually Page 6 of this exhibit,
10 please?

11 Do you recognize this page, Mr. McQueen?

12 A. Yes, I do.

13 Q. All right. So when it said modified Allen Pendergrass,
14 Thursday, February 7, 2013, at 5:37, is this automatically
15 calculated by the software or do you know how that information
16 is put there?

17 A. It is calculated automatically by the software if you set
18 it up correctly.

19 Q. Do you recognize the handwriting, call back Wednesday?

20 A. Yes. That is my handwriting.

21 Q. So explain for the jury, if this is fraud, who are you
22 calling back.

23 A. So initially I tried to collect from her. And the time
24 was running out as far as my time to pay back that 16 grand
25 from SunTrust. And so that was the largest account that was

1 left that I thought we could use.

2 **Q.** Okay. So it was your testimony that oftentimes you or
3 others in your office would try to attempt to contact a real
4 person?

5 **A.** If it was an actual one, I tried to attempt to, yes. If
6 we could find the individual, there was multiple attempts to
7 try, yes.

8 **Q.** And then when did the decision come about to start
9 stealing the money? How did that come about?

10 **A.** I don't remember how it came about. I know at some point
11 we thought -- me and Mr. Pendergrass -- that they probably
12 didn't want it or didn't believe us.

13 **Q.** Could it also be that you just wanted the money? Is that
14 a possibility? That you just wanted to take the money?

15 **A.** That is a possibility, yes.

16 **Q.** You testified you needed the money; correct?

17 **A.** I needed the money to pay back SunTrust, yes.

18 **Q.** So can we go to Page 7 of this exhibit, please?

19 So what are we looking at here, Mr. McQueen? Can you see
20 the bottom?

21 MR. BROWN: Can you enlarge the bottom please, Mary?

22 **A.** Yes. It looks like the checks that come from the City of
23 Atlanta.

24 **Q. (BY MR. BROWN)** Okay. And where were the checks mailed?

25 **A.** To 1809.

1 Q. To P.O. Box 1809?

2 A. That's correct.

3 Q. Do you know why it says return to sender?

4 A. Yes, I do.

5 Q. Explain that.

6 A. With my relationship with Ms. Booker from the City of
7 Atlanta, I found out that the checks were returned to the City
8 of Atlanta. The reason they were returned to the City of
9 Atlanta is because Mr. Pendergrass did not pay his post
10 office -- his post office rental box.

11 Q. So what did you do? The checks were mailed there;
12 correct?

13 A. That's correct.

14 Q. And then they were returned by the post office?

15 A. Yes.

16 Q. And then what did you do to try to obtain the checks?

17 A. I requested to Ms. Booker to remail the checks out.

18 Q. All right. And was the check mailed out?

19 A. Yes, it was.

20 Q. So if you look at this in the top here, it says May 13.

21 Do you see that on the bottom of -- you see a four -- I guess I
22 can touch it. Hold on.

23 A. Yes, I see it.

24 Q. Do you see that red dot?

25 A. Yes.

1 Q. All right. Then can we go to the next page, please?

2 What are we looking at here, Mr. McQueen?

3 A. That looks like a copy of the check.

4 Q. Was a copy of the check kept in the records of the
5 business?

6 A. Yes, it was. So every check that got mailed to us
7 would -- Mr. Pendergrass would make a copy of that check and
8 all the documents and then -- and then put them on the shelf in
9 that white folder that I was talking about earlier.

10 Q. All right. And then at some point, was the check
11 deposited at the bank?

12 A. Yes, it was.

13 Q. All right. Can we go to publish Exhibit Number 4, please?
14 It has already been admitted into evidence.

15 Can you describe what we're looking at here, Mr. McQueen?

16 A. Yes. This is a cover page for submission to the attorney
17 firm that -- Long Weinberg Ansley & Wheeler.

18 Q. All right. And who worked on this account?

19 A. I worked on the account.

20 Q. Did you sign this letter at the bottom above your name?

21 A. I did.

22 Q. Can we go to Page 2, please, of the same Exhibit 4?

23 Mr. McQueen, do you recognize this limited power of
24 attorney form?

25 A. I do.

1 Q. Do you recognize any signatures or writing on the actual
2 document?

3 A. No, I don't -- well, except the bottom part.

4 Q. All right. Did Mr. Sidney F. Wheeler sign this document?

5 A. No, he did not.

6 Q. Did you or anybody from your company attempt to locate
7 Mr. Sidney Wheeler?

8 A. No.

9 Q. Why not?

10 A. So this -- this firm was closed. And it was difficult
11 finding the former partners.

12 Q. So it is a law firm?

13 A. Yes.

14 Q. And to your knowledge, was Mr. Sidney F. Wheeler a lawyer
15 at the firm or the old firm?

16 A. Yes. Because his name was on the marquis.

17 Q. Do you recognize the writing who signed his name or
18 printed the name?

19 A. No, I do not.

20 Q. What about below acknowledgment of notary public, Georgia,
21 Fulton? Do you recognize any of that writing?

22 A. No, I do not.

23 Q. What about the bottom signature, Pat A. -- I can't make
24 that out.

25 Did the notaries notarize that document?

1 **A.** No. That was another photo -- photoshopped document.

2 **Q.** Did Mr. Pendergrass have knowledge of this particular --

3 MS. DURRETT: Objection, Your Honor. How does he
4 know what Mr. Pendergrass has knowledge of?

5 THE COURT: Sustained.

6 **Q.** **(BY MR. BROWN)** Did you work on this account while you
7 worked with Mr. Pendergrass?

8 **A.** Yes. So we discussed -- before all submissions after the
9 SunTrust accident -- well, not accident but after that mess-up,
10 I wasn't -- well, I wasn't supposed to make any moves without
11 Mr. Pendergrass. We would discuss everything before we
12 submitted them.

13 And so if we decided to submit something on a Tuesday, we
14 wouldn't submit it Tuesday. We would wait a day to make sure
15 that everything in the document looked authentic.

16 **Q.** Why would you do that?

17 **A.** Just to make sure we didn't -- we could make sure we
18 didn't have any mistakes, instead of submitting it in a rush.

19 I wanted to submit this one because at this time I had the
20 16,000 to pay. And I thought that I could use this one to pay
21 the 16,000 instead of getting to the higher one, the Georgia
22 Municipal one.

23 But Mr. Pendergrass assured me that we still had time to
24 pay the 16,000 off.

25 **Q.** Because you were concerned -- you didn't want to go to

1 jail?

2 **A.** I did not want to go to jail.

3 **Q.** Let's go to the next page, Page 3, of this exhibit.

4 Do you recognize this business card?

5 **A.** Yes. I made that card.

6 **Q.** Excuse me?

7 **A.** I made that card.

8 **Q.** Okay. Could we go to Page 4. Do you know anything about
9 the 1-800 number there or the cell number? Are those actual --

10 MR. BROWN: I'm sorry. Could we go back, Mary? I
11 apologize.

12 Go back to Exhibit 4, Page 3, please.

13 **Q. (BY MR. BROWN)** Do you need me to enlarge it, or can you
14 read it?

15 **A.** I see it here.

16 **Q.** So --

17 **A.** So the 1-800 number -- I don't remember all the way. It
18 was probably their old number. And the 404 number was just one
19 of the cell -- burner cells that we purchased from Walmart.

20 **Q.** Did Mr. Pendergrass have knowledge that you were making
21 business cards for these accounts?

22 **A.** Yes.

23 **Q.** How did he have knowledge of that?

24 **A.** We sat in the office across from each other.

25 **Q.** So using --

1 **A.** And so I would make a card and then show him the card, and
2 then we would -- I would talk with Mr. Fitchpatric about
3 sending seals over, and Mr. Fitchpatric would adjust the seal
4 or adjust the signature to make it look more authentic.

5 **Q.** Let me stop you there.

6 **A.** Okay.

7 **Q.** You testified that you and Mr. Pendergrass sat across from
8 one another; is that correct?

9 **A.** Yes.

10 **Q.** Can you use an object here in the courtroom to demonstrate
11 how far your desk was from Mr. Pendergrass's work station?

12 **A.** So if I'm sitting -- my work station was facing this way.
13 And then there was another desk right here in the front. It
14 was a very small office.

15 And so there was a TV up on the wall. And then there was
16 a desk right in front of me. And my desk was on this wall.
17 And Mr. Pendergrass's desk was -- it was one of the large like
18 old school executive desks maybe four or five feet away.

19 **Q.** Okay. Would Mr. Pendergrass or anyone in the office be
20 able to see your screen when you are making these business
21 cards?

22 **A.** Yes.

23 **Q.** Did you shield your screen in any way to hide what you
24 were doing?

25 **A.** No. We were always in discussion about it.

1 MR. BROWN: Let's go to Page 4 now, Mary. Thank you.

2 **Q. (BY MR. BROWN)** Mr. McQueen, do you recognize any of the
3 writing -- the handwriting on the form?

4 **A.** Yes. That is my handwriting there.

5 **Q.** So on the form when it says client leads owner at the
6 top --

7 MR. BROWN: Mary, can you just enlarge the top,
8 please -- the top third?

9 MS. JOHNSON: Right here?

10 MR. BROWN: Yes, ma'am.

11 **Q. (BY MR. BROWN)** So, Mr. McQueen, when it says client
12 leads, Allen Pendergrass, does that mean anything for the
13 business?

14 **A.** No, it doesn't. It would mean -- it would mean something
15 to the business if you had eight or nine employees and you
16 needed to keep up with what they are working on when the
17 business is worked properly like a debt collection or in a
18 sales environment what deals you were working on and the
19 updates.

20 But you could print off this document and then make notes
21 on here, or you could make -- you could make notes in the
22 system just depending on who was logged in.

23 **Q.** So in this particular account, just because it says Mr.
24 Pendergrass doesn't mean you didn't work on this account as
25 well; is that fair?

1 **A.** That means I did work on it just because -- yeah.

2 **Q.** So just because it has his name on there doesn't mean you
3 didn't work on the account?

4 **A.** That's correct. Yeah.

5 **Q.** Can we go to Page 6 of this exhibit, please?

6 What are you looking at here, Mr. McQueen?

7 **A.** We're looking at an issued check from the City of Atlanta
8 in the name of Asset Financial Recovery.

9 **Q.** Would you go to Page 7 of the exhibit, please.

10 Do you recognize what this is, Mr. McQueen?

11 **A.** It looks like a deposit slip.

12 **Q.** All right. So it appears that there were orderly records
13 kept of money that was recovered; is that fair?

14 **A.** Yes.

15 **Q.** Can we go to Page 8, please?

16 What is this a copy of, Mr. McQueen?

17 **A.** It looks like a copy from -- the mailed copy from the City
18 of Atlanta.

19 MR. BROWN: Mary, could you just enlarge the actual
20 postage -- first class postage meter on top.

21 **Q.** **(BY MR. BROWN)** So where was this check mailed?

22 **A.** It was mailed to the P.O. Box 1809.

23 **Q.** Do you see the date? Is it May 13 and then it says to and
24 you can't read the year?

25 **A.** Yeah. I see it.

1 Q. What year was that?

2 A. 2000 --

3 MS. DURRETT: Object, Your Honor.

4 A. 2013.

5 MS. DURRETT: There is no date on it.

6 THE COURT: Well, do you know -- how do you know
7 that?

8 MR. BROWN: Mr. McQueen, she is asking you a
9 question.

10 THE COURT: How did you know that? That it was 2013?

11 THE WITNESS: Because this is one of the checks we
12 submitted for in 2013. I thought this was a check that I was
13 going to be able to pay back the 16 grand that I owed to
14 SunTrust.

15 Q. (BY MR. BROWN) What happened --

16 MR. BROWN: So is the objection overruled, Judge?

17 THE COURT: Yes.

18 Q. (BY MR. BROWN) Were you not able to use these funds?

19 A. No, I wasn't. I didn't have control of the bank account.

20 Q. So explain what do you mean you didn't have control of the
21 account.

22 A. This was in another account that was opened by
23 Mr. Pendergrass. And so I told him -- Mr. Pendergrass knew
24 about my SunTrust situation. And SunTrust gave me an
25 extension. Because I went to court for them in May and they

1 gave me an extension to pay the money.

2 Q. Let me stop you there. Did you ask Mr. Pendergrass to
3 give you some of this money so you can pay your debt?

4 A. Yes.

5 Q. What was his response?

6 A. No.

7 Q. Did you ask him why?

8 A. Yes. He said we still have time.

9 Q. Time for what?

10 A. To pay back SunTrust.

11 Q. Okay.

12 A. After I told him I got the extension, I wanted to take
13 care of SunTrust because the judge told me if you don't have it
14 then you will be going to jail when you come back. And so my
15 focus and my alert was I need to pay this back.

16 Q. Can we go to Exhibit Number 5, please, which has already
17 been admitted into evidence?

18 Mr. McQueen, do you recognize Exhibit Number 5?

19 A. Yes, I do.

20 Q. What is Exhibit Number 5?

21 A. It is Mr. James H. Bone, trustee.

22 Q. Are you familiar with trying to obtain these funds?

23 A. Yes, I am.

24 Q. Were these funds lawfully obtained or stolen?

25 A. They were stolen. I remember talking to Mr. Bone about

1 these funds. He said that they weren't his funds.

2 Q. So you actually spoke with Mr. Bone?

3 A. I did.

4 Q. Let's go to Page 2 of Exhibit 5, the next page.

5 And Mr. McQueen, same question: Do you recognize any of
6 the handwriting or printed words on this form?

7 A. Yes. The acknowledgment of notary public.

8 Q. Whose handwriting is that?

9 A. That is my handwriting.

10 Q. Okay. What about the signature of James H. Bone and the
11 printing under James H. Bone? Do you recognize that writing?

12 A. It is Mr. Pendergrass's handwriting.

13 Q. Can you explain why there is different handwriting on this
14 document?

15 A. Yes. So we wanted to make it look more authentic instead
16 of having the same handwriting up and down the document.

17 Q. Okay. The notary seal, is that also fraudulent?

18 A. Yes, it is.

19 Q. What about the signature for the notary? Is that
20 fraudulent as well?

21 A. Yes. That notary seal and the signature was
22 photocopied -- well, not photocopied. Photoshopped.

23 Q. Can we go to the next page, Page 3, of the same exhibit,
24 please? It is hard to read.

25 Do you recall creating this card, Mr. McQueen?

1 **A.** Yes. I made the card. I don't believe we got a phone for
2 that. We just hid it in plain sight.

3 COURT REPORTER: You don't believe -- I missed that
4 part.

5 **Q.** **(BY MR. BROWN)** Can you repeat the last part of your
6 testimony?

7 **A.** We hid it in plain sight meaning we, me and
8 Mr. Pendergrass, listed the actual phone number of James Bone
9 on the business card.

10 **Q.** Now, approximately how many business cards did you create
11 in the time you were working with Mr. Pendergrass -- fraudulent
12 business cards did you create?

13 I don't need an exact number. Just approximately.

14 Is it 10? Is it 20? Is it 100? Is it 1000?

15 **A.** I don't know the number. But for each of the fraudulent
16 submissions to the City of Atlanta, those are the cards that I
17 worked on.

18 **Q.** Okay. And was it your duty or responsibility as it
19 relates to most of the business cards that were created?

20 **A.** Yes.

21 **Q.** Why?

22 **A.** They were easy to create.

23 MR. BROWN: Can we go to Page 9 of Exhibit 5? Can we
24 just enlarge the actual bottom portion of the mailing?

25 **Q.** **(BY MR. BROWN)** So, Mr. McQueen, where was this check

1 mailed?

2 **A.** It was mailed to the P.O. Box.

3 **Q.** And is the date May 13 at the top?

4 **A.** Yes.

5 **Q.** And is that in 2013?

6 **A.** Yes, it is.

7 **Q.** And can we just go to Page 10 of the exhibit, please?

8 What are we looking at here, Mr. McQueen?

9 **A.** It looks like a copy of the actual check.

10 **Q.** Can we publish Exhibit Number 6, which has already been
11 admitted into evidence?

12 Do you recognize this document, Mr. McQueen?

13 **A.** Yes.

14 **Q.** Explain to the jury, please.

15 **A.** It is a cover document for Actor's Express in Atlanta.

16 **Q.** And whose account was Actor's Express?

17 **A.** It was my account. And the reason it was my account was
18 we didn't know which submissions the City of Atlanta was going
19 to pay out. And so we needed to submit in case the larger one
20 didn't -- if they were to deny the larger one, say, the Georgia
21 Municipal Association, then we needed something to add up to
22 that 16 grand. And so that was next on the list. The 14 grand
23 with James Bone and then the 11 grand with Actor's Express.

24 **Q.** All right. Can we go to Page 2 of the exhibit, please?

25 Mr. McQueen, do you recognize any handwriting or signature

1 on this page?

2 **A.** Yes, I do.

3 **Q.** Can you tell the jury what you recognize?

4 **A.** Yeah.

5 **Q.** You can actually point to it too. I think it will work
6 for you too.

7 **A.** Well, it is just not closer. Can you give me a copy?

8 MR. BROWN: Mary, can you zoom in on the bottom half
9 of the page, please, above the signature -- above that part?
10 Yeah. There we go.

11 Thank you, Mary.

12 **Q.** (BY MR. BROWN) Does that help you, Mr. McQueen?

13 **A.** Yes. So the top signature for Freddie Ashley -- so I
14 talked to Mr. Ashley. He didn't want the funds. He didn't
15 believe -- he told me he didn't believe the funds were his.

16 And so like I previously said, we didn't know -- me and
17 Mr. Pendergrass didn't know which ones they were going to pay
18 out or not. And so we needed to make multiple submissions to
19 see which money would come back so I could take care of
20 SunTrust.

21 **Q.** Okay. So the signature -- whose signature -- who signed
22 for Freddie Ashley? Do you know?

23 **A.** Yeah. At the top, Freddie Ashley is Mr. Pendergrass's
24 signature.

25 **Q.** What about below that? Do you recognize the handwriting?

1 **A.** So the Georgia and the Fulton is Mr. Pendergrass's
2 signature. And the 30th April and then the Freddie Ashley is
3 my handwriting and then the Claudette is my signature down at
4 the bottom or Claudine.

5 **Q.** What about the notary? Is that a lifted notary as well?

6 **A.** That's correct. It is a lifted notary.

7 **Q.** And you testified previously you did this, having two
8 signatures or two handwriting on the same page, to not appear
9 that the same person did it?

10 **A.** Yes.

11 **Q.** And did you -- can we go to the next page, please?

12 I know that is kind of hard to see. But do you recall
13 creating a business card for this account as well?

14 **A.** Yes, I do. I made the card.

15 MR. BROWN: Could we go to Page 4 of the exhibit,
16 please. Could we just enlarge the top third maybe, please.

17 **Q.** **(BY MR. BROWN)** So, Mr. McQueen, do you see the top where
18 it says leads owner it has Shawn McQueen?

19 **A.** Yes.

20 **Q.** Does that entry mean you are the only person that was
21 associated with this account?

22 **A.** No. That just means my name was on the document -- I
23 mean, on this in the customer management system.

24 **Q.** Was Mr. Pendergrass aware of the Actor's Express account?

25 **A.** Yes, he was.

1 MR. BROWN: Could we go to Page 7 of this exhibit,
2 please. And can we enlarge the bottom half?

3 Thank you, Mary.

4 **Q. (BY MR. BROWN)** Mr. McQueen, does this show that this
5 check was mailed from the City of Atlanta to the P.O. Box 1809?

6 **A.** Yes. It was one of the checks that were sent back because
7 of the post office box being closed.

8 **Q.** And do you see the date May 13 at the top?

9 **A.** Yes, I do.

10 **Q.** Is the year 2013 when that was mailed?

11 **A.** That's correct.

12 **Q.** Can we go to the final page, Page 8, of the exhibit,
13 please?

14 And what are we looking at here, Mr. McQueen?

15 **A.** That was the check that I was sent from the City of
16 Atlanta.

17 MR. BROWN: Okay. Can we go to Page -- Exhibit 11,
18 please, Mary? It has already been admitted into evidence.

19 **Q. (BY MR. BROWN)** Mr. McQueen, do you recognize this
20 document?

21 **A.** Yes, I do.

22 **Q.** So Guishard Wilburn & Shorts, at the top, LLC, what is
23 that company?

24 **A.** That was a company Mr. Pendergrass was operating when I
25 first met him.

1 MR. BROWN: Mary, can you just enlarge the top third
2 of the check -- I mean, this page, please?

3 Q. (BY MR. BROWN) So is Guishard a company that you started,
4 or was it started by Mr. Pendergrass?

5 A. No. It was started by Mr. Pendergrass.

6 Q. And that P.O. Box 1809, is that the same P.O. Box in which
7 many of these stolen checks were mailed?

8 A. Yes, it was.

9 MR. BROWN: Can we just enlarge the bottom portion --
10 bottom half of this letter, please, Mary?

11 Q. (BY MR. BROWN) Do you recognize the signature?

12 A. Yes. That is Mr. Pendergrass's signature.

13 MR. BROWN: Can you back out, Mary?

14 Q. (BY MR. BROWN) Do you remember the Atlanta Quarterback
15 Club account?

16 A. I do.

17 Q. Did you work on this account?

18 A. I did.

19 Q. Who did you work with on the account?

20 A. Who did I work on the account --

21 Q. With.

22 A. -- with?

23 Q. Yes.

24 A. Mr. Pendergrass.

25 MR. BROWN: Could we go to Page 2 of this exhibit,

1 please. Could we just enlarge everything below -- yeah.

2 Everything below that.

3 **Q. (BY MR. BROWN)** Is that a forged signature of Mr. Waller?

4 **A.** Yes, it was. I did the research.

5 **Q.** When you say you did the research, what do you mean?

6 **A.** So I attempted to contact them. And I wasn't able to
7 contact them.

8 But I noticed that Mr. Waller was the treasury person on
9 their website. So that is where I got his name from. And that
10 is my handwriting where Mr. Waller is.

11 **Q.** So when it says by colon X, did you sign that Melvin
12 Waller?

13 **A.** Yes, that is mine.

14 **Q.** Do you recognize any other writing on the bottom?

15 **A.** So that is Mr. Pendergrass's handwriting under there.
16 This one we set up to submit through another company instead of
17 submitting through Asset Financial Recovery.

18 **Q.** Why did you do that?

19 **A.** To just change it up so it didn't look like we were
20 submitting everything under the other company.

21 Every so often, he said he would -- Mr. Pendergrass would
22 make submissions under the Guishard Wilburn & Shorts.

23 **Q.** Could we go to Page 3 of this exhibit, please?

24 Did you create this card, Mr. McQueen?

25 **A.** Yes, I did.

1 Q. What about the phone number or the email? Do you
2 recognize those? And who created those?

3 A. The phone number was the phone number from Atlanta
4 Quarterback Club.

5 Q. What about the email address?

6 A. The email I made up just to say a general Gmail account.

7 MR. BROWN: Then could we just go to Page 5 of this
8 exhibit, please. Could you just enlarge the top portion.

9 Q. (BY MR. BROWN) What is this showing us here?

10 A. This is a copy of the check sent.

11 MR. BROWN: Okay. Could we just go back to Exhibit
12 Number 4, please. Exhibit Number -- I'm sorry. I misspoke. I
13 wanted you to go back to 11 -- Page 4 of Exhibit 11. Sorry.

14 MS. JOHNSON: 11. Okay.

15 MR. BROWN: Just the previous one we were on. Just
16 enlarge that, please.

17 Q. (BY MR. BROWN) Mr. McQueen, do you recognize what this
18 is?

19 A. Yes. It is a deposit slip from the Bank of America.

20 Q. Are you familiar with the account in which this check was
21 deposited?

22 A. Yes, I am.

23 Q. How are you familiar with that?

24 A. The reason I'm familiar with it is because I opened up an
25 account with the Bank of America under the name Atlanta

1 Quarterback Club.

2 As I previously mentioned, that it was difficult to cash a
3 check from the Holland & Knight experience. And so you either
4 had to open up an account under the business name to make it
5 look like it was your business, or you had to get a check
6 reissued under your business name.

7 This was before we knew that the City of Atlanta was
8 changing -- that they would write the checks under our name.
9 So that is why it is under Atlanta Quarterback Club.

10 MR. BROWN: Mary, can you publish Exhibit Number 20,
11 which is already in evidence? Can you just enlarge the top
12 half of that, please?

13 **Q. (BY MR. BROWN)** Mr. McQueen, are you familiar with the
14 business bank account ending in 3556?

15 MR. BROWN: Can you go back, Mary, and do the bottom
16 as well so he can see that? Just the bottom half.

17 **A.** Yeah. I'm familiar with that. Mr. Pendergrass opened up
18 the Wells Fargo account.

19 **Q. (BY MR. BROWN)** Now, you testified earlier about an
20 account in which you did not have access.

21 Is this the account which you were speaking of?

22 **A.** Yes, it was.

23 **Q.** Why didn't you have access to this account when you had
24 access to the other account?

25 **A.** We set up the Bank of America account. We wanted to -- we

1 wanted the Bank of America to look more as a corporation. That
2 is why me, Mr. Pendergrass, and Ms. Barber went down there to
3 the bank, got dressed up, and everybody was there. So we
4 wanted to be legitimate or appear legitimate. And --

5 **Q.** So let me stop you there. So you have a distinct memory
6 of dressing up? Did you wear a suit?

7 **A.** Yes.

8 **Q.** Was Mr. Pendergrass wearing a suit?

9 **A.** Yes.

10 **Q.** Was Ms. Barber in business attire, or was she dressed up
11 like a business person as well, or do you recall?

12 **A.** I don't recall if she had on a business suit. She may
13 be -- I remember us looking the part.

14 **Q.** So then you testified about that Bank of America account
15 with Mr. Pendergrass and Ms. Barber.

16 Why were you not on this account as well?

17 **A.** That business account got closed for -- I don't remember
18 the reason. And to have more control on that account,
19 Mr. Pendergrass said he would just handle this account and
20 wouldn't no one else's name be on that account.

21 **Q.** So for this particular account, did you have access to the
22 account?

23 **A.** No, I did not.

24 **Q.** Could you write checks on the account?

25 **A.** No, I could not.

1 Q. Did you have a debit card?

2 A. No, I did not.

3 Q. Could you go in the bank and withdraw money from this
4 account?

5 A. No.

6 Q. Did you attempt to go in the bank and withdraw money from
7 this account?

8 A. No, I did not.

9 MR. BROWN: So let's go to 20, Page Number 118 of
10 this exhibit.

11 MS. JOHNSON: Did you say 118?

12 MR. BROWN: I'm sorry. 118 of 20. Page 118 of 20.
13 Can we just go to actually 119, the next page?

14 Q. (BY MR. BROWN) Mr. McQueen, we have already testified
15 about this check.

16 Is this a check related to the law firm that was
17 fraudulently obtained from the City of Atlanta?

18 A. Yes, it was.

19 Q. Was this -- was this check deposited into an account
20 controlled by Mr. Pendergrass?

21 A. Yes, it was.

22 Q. Now, did you have an occasion to go down to the bank with
23 Mr. Pendergrass when checks were being deposited?

24 A. So yes.

25 Q. Do you recall doing that?

1 **A.** I recall going to the bank with him for the four deposits
2 that added up to the \$106,000.

3 **Q.** Why did you go to the bank with him that day?

4 **A.** I went with him to make sure that -- I needed money at the
5 time. And so he had wrote me a check. And I wanted to make
6 sure that he was -- I needed to pay back SunTrust. And so I
7 wanted to make sure that he wasn't going to do anything because
8 he had sole control of that account.

9 **Q.** When you say he wasn't going to do anything, what do you
10 mean by that?

11 **A.** He had other business ventures that he was involved with
12 that he would, I guess, invest money into. I seen him --
13 Mr. Pendergrass on occasion --

14 MS. DURRETT: Objection, Your Honor.

15 MR. BROWN: Let me stop you there.

16 MS. DURRETT: I don't know where this is headed.

17 MR. BROWN: Let me just stop you there. I'll ask you
18 another question, Mr. McQueen.

19 So speaking of the bank, let's publish Exhibit 19D,
20 please. I meant D as in dog. I didn't enunciate. My fault?

21 MS. JOHNSON: 19D?

22 MR. BROWN: Yeah, D. D as in doll or David.

23 Can you just enlarge the bottom photograph, please?

24 **Q. (BY MR. BROWN)** All right. So what are we looking at
25 here, Mr. McQueen?

1 **A.** That is me and Mr. Pendergrass at the bank.

2 **Q.** And you testified previously this is when you were
3 depositing -- Mr. Pendergrass was depositing those large value
4 checks from the City of Atlanta?

5 **A.** Yes.

6 MR. BROWN: And let's go to 19 -- Page 33 of that
7 same exhibit.

8 MS. JOHNSON: You want 19D?

9 MR. BROWN: I'm sorry. It is actually -- it is 19D,
10 Page -- I don't know how you have it in there -- five maybe.

11 MS. JOHNSON: Okay.

12 MR. BROWN: I think it is five.

13 **Q.** **(BY MR. BROWN)** Is this a large view of another photograph
14 from that same day, Mr. McQueen?

15 **A.** Yes.

16 **Q.** And do you recall were you paid by Mr. Pendergrass after
17 this bank visit?

18 **A.** I don't remember.

19 You mean that day?

20 MS. DURRETT: Objection, Your Honor. There is no
21 question pending.

22 THE COURT: There is not a question pending. If you
23 have a question yourself, Counsel, you may ask it.

24 **Q.** **(BY MR. BROWN)** Do you recall any trips you took with
25 Mr. Pendergrass in June 2013?

1 **A.** Yes.

2 **Q.** Where did you go?

3 **A.** We went to Costa Rica.

4 **Q.** And why did you go to Costa Rica?

5 **A.** To have a good time.

6 **Q.** All right. Who went on the trip?

7 **A.** Myself, Mr. Pendergrass, and Deidre Barber.

8 **Q.** Do you recall who paid for the trip?

9 **A.** Mr. Pendergrass and Ms. Barber went ahead of me.

10 **Q.** Okay. So that doesn't answer my question. If you don't

11 recall, you can just say I don't recall.

12 **A.** Yeah. I don't recall.

13 **Q.** That is fine. Did anyone else go from the company besides

14 you, Mr. Pendergrass, and Ms. Barber?

15 **A.** No.

16 **Q.** Was it a business trip, a personal trip? What was the

17 nature of the trip?

18 **A.** It was a personal trip.

19 MR. BROWN: Can you publish -- can you go to 20 --

20 Exhibit 20, Page 176, please, Mary?

21 MS. JOHNSON: Of course.

22 MR. BROWN: Can we enlarge -- let's start with the

23 bottom half of the page, please.

24 **Q.** **(BY MR. BROWN)** All right. So, Mr. McQueen, I'm going to

25 direct your attention to the red dot.

1 Do you see that deposit on June 20 in the amount of
2 \$106,879?

3 **A.** Yes, I see.

4 MS. DURRETT: Your Honor, I'm just going to object at
5 this point. This is a witness who said he didn't have control
6 over this bank account or have any signing authority or
7 anything to do with this bank account.

8 So where are we going?

9 MR. BROWN: Your Honor, this is evidence -- it is in
10 evidence. He recognizes the deposit. He was actually in the
11 bank with Mr. Pendergrass making the deposit. So he can
12 certainly testify about the knowledge of the account. He has
13 already established his knowledge of the account, Your Honor.

14 THE COURT: I don't think he has that. But he can --
15 if he is able to --

16 Sir, how do you know about that particular deposit?

17 THE WITNESS: Those deposits was the deposits -- the
18 four deposits that came in from the City of Atlanta that
19 totaled that amount. So the Georgia Municipal Association, the
20 Actor's Express, the Bone trustee, and there was the other one.
21 I forget the other one.

22 **Q. (BY MR. BROWN)** Mr. McQueen, were you present at the bank
23 when Mr. Pendergrass deposited those checks into the account?

24 **A.** Yes, I was.

25 **Q.** And in looking at the actual -- you testified that month

1 you, Mr. Pendergrass, and Ms. Barber went to Costa Rica;
2 correct?

3 **A.** That's correct.

4 **Q.** What part of Costa Rica did you go to?

5 THE COURT: Would you take down the exhibit?

6 MR. BROWN: I need the exhibit up.

7 THE COURT: I don't think you can use it for this
8 purpose -- for that purpose -- this document for that purpose,
9 if it is not his document.

10 MR. BROWN: Your Honor, it is in evidence. I can use
11 it for any purpose.

12 THE COURT: He does not have personal knowledge of
13 that document. You have not established that. You have
14 established -- if you can -- if you want to establish it in
15 some other way later on, you can.

16 But you can ask him about -- anything about the trip
17 to Costa Rica. I'm not going to have you do that --

18 MR. BROWN: Could I be heard?

19 THE COURT: -- what you are suggesting.

20 Not with the jury present. If this is so important
21 to you, then I'll excuse the jury.

22 MR. BROWN: Could we take our afternoon break?

23 THE COURT: Yes, they can.

24 COURTROOM SECURITY OFFICER: All rise.

25 **(The jury exited the courtroom at 2:56 P.M.)**

1 MR. BROWN: Your Honor, can Mr. McQueen use the
2 restroom or take a break?

3 THE COURT: Yes.

4 MR. BROWN: You can step down, Mr. McQueen.

5 THE WITNESS: Okay. Thank you.

6 **(The witness exited the courtroom.)**

7 THE COURT: I know it is a document in evidence.
8 What I don't understand is why you need that document that he
9 has no -- has indicated no personal knowledge of that document
10 itself. It is not his account -- why you need that document in
11 front of the jury for him to explain anything that is on it.

12 You can ask him about the Costa Rica trip, et cetera,
13 because he was on it.

14 MR. BROWN: Right. So my understanding of the rules
15 of evidence is this document has already been admitted. I can
16 use this document. It is admitted for any purpose. I could
17 have Joe Blow up there and put this document up and ask him
18 about this document. Do you recognize the Hotel Morlena
19 (phonetic)? Have you been there before? Yes, I have been
20 there.

21 Okay. Have you been to hotel -- because it is
22 admitted into evidence, Your Honor. There is nothing
23 prohibiting me from using the document.

24 Now, if I ask him a question and he says I don't know
25 anything about that, then that is a different point. I'll move

1 on, Judge. But if he says yes, I did go to the hotel there,
2 yes, I did go --

3 THE COURT: You can ask him the same questions
4 without having all the funds up here. I don't understand why
5 you need it in this way.

6 MR. BROWN: Because it is -- I want to demonstrate
7 the \$106,000 that they stole from the City of Atlanta while
8 working together. They go on a trip, and they spend thousands
9 of dollars with doing that.

10 THE COURT: You can do that otherwise. All right. I
11 have ruled. Okay.

12 I feel like what you are doing is trying to actually
13 poison the evidence in a way by this. You are trying to get
14 people to be fixated on the amounts. That is fine if you --
15 this issue is not just about morality.

16 MR. BROWN: Your Honor --

17 THE COURT: But that is what you were -- you are
18 turning it into a morality play this way.

19 MR. BROWN: No, Your Honor.

20 THE COURT: No. I mean, I have ruled. That is it.
21 I don't want to spend more time on this.

22 MR. BROWN: So you are saying, just so I can be
23 clear -- I don't want to overstep my bounds or step on the
24 Judge's toes or do something improper -- I can ask him about
25 it? Your issue is having the exhibit up?

1 THE COURT: My issue is having the exhibit up.

2 MR. BROWN: He can have the exhibit and I can ask him
3 about it just so the jury doesn't see it? Is that okay?

4 THE COURT: No, it is not okay.

5 MR. BROWN: It is admitted into evidence. I don't
6 understand why I can't use the document. You said you are
7 concerned with the jury -- somehow poisoning the jury. I'm not
8 trying to do that.

9 THE COURT: There is no way for him to have a
10 document in front of him -- I mean, if you want to refresh his
11 recollection of someplace he was at, do you know anything about
12 Key Largo -- there is no reason why you couldn't at the same
13 time say, did you spend time at the Key Largo San Jose? Did
14 you spend time at the Hotel Dunn in San Jose?

15 But what we have attached to this is also various
16 expenditures at those places. And I just don't think -- even
17 though they are not exorbitant, I don't think you need them.

18 MR. BROWN: Okay. I understand. I'm not going to
19 argue.

20 Can I make one last issue and that is it? It is not
21 about the expenses. It is showing the relationship. So that's
22 the whole point of this trial is to show how Mr. Pendergrass
23 and Mr. McQueen are related. They are doing things together.

24 THE COURT: I understand that, and I haven't
25 prohibited you from asking anything about this. So you don't

1 need the document for it. And I don't know why you have made a
2 big issue of it.

3 I could be wrong, but it is not -- this is not
4 material one way or the other when I haven't prohibited you in
5 any way from asking about the trip in San Jose that would show
6 their relationship.

7 So it just doesn't make sense to me that you have --

8 MR. BROWN: I am done.

9 THE COURT: I have ruled on it.

10 MR. BROWN: I'm done. Thank you, Judge.

11 THE COURT: Okay.

12 MR. BROWN: Thank you. What time are we supposed to
13 be back, Judge? Was that a 15-minute break?

14 THE COURT: De facto at this point.

15 MR. BROWN: All right. Thank you, Judge.

16 THE COURT: 3:15.

17 By the way, let me just say one other thing, as long
18 you are irritated with me about this. I think given the volume
19 of evidence that I have introduced -- that you have introduced
20 and I have let you introduce, I don't think that you need the
21 404(b) conviction. And I'm not going to allow it in.

22 MR. BROWN: Can I be heard on that later? I know you
23 may -- can we just talk about it a little later, Judge?

24 I'm not going to obviously talk about it. It will be
25 the last thing I'll introduce.

1 I hear where you are coming from. But can I at least
2 address it to you later?

3 THE COURT: Yes.

4 MR. BROWN: All right. Thank you, Judge.

5 **(A brief break was taken at 3:02 P.M.)**

6 THE COURT: Ready?

7 MR. BROWN: Ready, Judge.

8 **(The jury entered the courtroom at 3:29 P.M.)**

9 MR. BROWN: Can I continue, Judge?

10 THE COURT: Yes, you may.

11 **Q. (BY MR. BROWN)** Mr. McQueen, when we left off before the
12 break, we were talking about your trip with Mr. Pendergrass and
13 Ms. Barber to Costa Rica.

14 Do you recall that testimony?

15 **A.** Yes. Yes, I do.

16 **Q.** Do you recall which hotel you stayed at in Costa Rica with
17 Mr. Pendergrass and Ms. Barber?

18 **A.** We stayed at the Dunn Inn.

19 **Q.** The Dunn Inn?

20 **A.** Yes, the Dunn Inn.

21 **Q.** Do you recall any other hotels besides the Dunn Inn?

22 **A.** As I stated previously before, they went before me. So
23 there was another place they were at. I don't know where they
24 stayed at there. But when they met me there, we stayed at the
25 Dunn Inn.

1 Q. Do you recall approximately how long the trip was -- how
2 long you stayed at the Dunn Inn with Mr. Pendergrass and
3 Ms. Barber?

4 A. I believe it was a week.

5 Q. And was the trip in celebration of how well the business
6 was going, or was business discussed during the trip?

7 MS. DURRETT: I'm going to object to leading.

8 MR. BROWN: I'll withdraw the question.

9 Q. (BY MR. BROWN) What did you discuss with Mr. Pendergrass,
10 while on the trip, if anything, about business?

11 A. Just about the 16 grand that I still owed.

12 Q. You seem kind of fixated on the \$16,000.

13 Why are you so concerned about this \$16,000?

14 A. Because I knew with Clayton County what -- I remember what
15 the judge told me about that, and I didn't want to go to jail,
16 so it was first on my -- it was at the top of my list of
17 priorities to try to pay that money back.

18 Q. All right. So you already testified about the \$106,000;
19 is that correct?

20 A. What is that? Yes.

21 Q. You already testified about the \$106,000 that was
22 deposited into the account?

23 A. Yes.

24 Q. Were you paid proceeds from that \$106,000?

25 A. Yes, I was.

1 MR. BROWN: Can we publish 20 -- Exhibit Number 8 --
2 20, Page 8.

3 MS. DURRETT: Your Honor, I think we're going to have
4 the same problem with the bank records.

5 MR. BROWN: Your Honor, these are just checks showing
6 that he was paid from the proceeds, Judge. It is not the hotel
7 information.

8 THE COURT: Well, let me -- it is Exhibit 8?

9 MR. BROWN: Yes. It is Exhibit Number 20, Judge,
10 Page 8. It is actually on the screen now, Judge, if you want
11 to look.

12 THE COURT: Well, I would like it not to be on the
13 screen.

14 MR. BROWN: Can you take it down, Mary, please?

15 THE COURT: That's fine. You can show Page 8.

16 MR. BROWN: Can you publish it, Mary?

17 **Q. (BY MR. BROWN)** What are we looking at here, Mr. McQueen?

18 **A.** That is a check paid to me in the amount of three grand.

19 **Q.** It says commissions. Is it for a commission?

20 **A.** No.

21 **Q.** What is it for?

22 **A.** It is for the checks that we submitted for my portion. I
23 don't remember if this was part of the 106. I think this one
24 was part of the 26.

25 **Q.** Okay. Now, who signed this check?

1 **A.** Mr. Pendergrass.

2 MR. BROWN: All right. Can we publish Page 8 of this
3 same exhibit, please, Mary?

4 MS. JOHNSON: Page 8 of 20?

5 MR. BROWN: 11. I'm sorry. We are already on 8. 11
6 of 20.

7 **Q.** **(BY MR. BROWN)** Same question regarding this exhibit,
8 Mr. McQueen. This is a check two days -- a few days later in
9 the amount of \$5062.

10 What is this payment for?

11 **A.** This payment and the other payment was the 33 percent of
12 the 26.

13 **Q.** All right. Now -- okay. And the 26,000 was the money
14 that was stolen from the law firm; is that correct?

15 **A.** That's correct.

16 MR. BROWN: Can we go to Page 19 of this exhibit,
17 please? Can we just enlarge that top?

18 Just leave it. That is fine.

19 **Q.** **(BY MR. BROWN)** Can you recognize this, Mr. McQueen?

20 **A.** Yes.

21 **Q.** What was this payment for, if you recall?

22 **A.** I don't remember.

23 **Q.** Okay. That is fine. Let's publish 22, please.

24 Mr. McQueen, what was the 500-dollar payment for? Was
25 that a commission? Was that a split? Why would you get

1 money -- a 500-dollar check? Do you have any knowledge about
2 that?

3 **A.** It was to just split up just so I would have --
4 Mr. Pendergrass said so I would have some regular income coming
5 in or make it look like I had regular income coming in.

6 MR. BROWN: All right. Can you publish the next
7 page, 23, of Exhibit 20?

8 **Q.** (BY MR. BROWN) What about this payment, Mr. McQueen?

9 **A.** It looks like the same type of payment.

10 MR. BROWN: Could we go to Page 25 of the same
11 exhibit, please. Let's go to 28. Sorry. Wrong one.

12 **Q.** (BY MR. BROWN) Okay. Do you recognize this payment for
13 the amount of \$4000 on June 21st, 2013?

14 **A.** Yes, I do.

15 **Q.** What was this for?

16 **A.** This was part -- this was my 33 percent of the 106.

17 **Q.** All right. I'm not great at math. But \$4000 is not
18 33 percent of \$106,000; is that fair?

19 **A.** Yes.

20 **Q.** All right. So why didn't you get the whole check at one
21 time?

22 **A.** So me and Mr. Pendergrass had decided that it wasn't wise
23 to just cut one check for the 33 percent. So we were going to
24 break it up. I got this check for 4000, another check for
25 8000, another check for 9000.

1 Q. And you said it wasn't wise. What do you mean you guys
2 discussed it wasn't wise? For what reason would you need to
3 break it up?

4 I don't understand. Can you explain why you would need to
5 break it up?

6 A. Just so we wouldn't alert the bank on anything.

7 MR. BROWN: Okay. Can you go to the next page, 29 of
8 Exhibit 20, please?

9 Q. (BY MR. BROWN) What about this payment on 6/26/2013 in
10 the amount of \$8175? Do you know what this is for?

11 A. Yeah. That was part of the 33 out of the 106.

12 Q. Do you know how much Mr. Pendergrass received out of the
13 \$106,000?

14 A. He received the 67 percent.

15 Q. So you would get 33 percent, and he would take the
16 67 percent?

17 A. That's correct.

18 Q. To your knowledge, were any of the rightful owners paid
19 out of that \$106,000 approximately?

20 A. Out of the legitimate deals that we did, yes.

21 Q. All right. What were the legitimate deals?

22 A. The Fryer firm. I don't have that list in front of me.
23 Roshaunta Redmond. I think that is her last name.

24 Q. Let's start with the Fryer firm.

25 A. Yeah. Do you have that list?

1 Q. Tell us about the Fryer firm. Whose account was it, and
2 how was it legitimate?

3 A. The Fryer firm was an account that I was working on to try
4 to collect to let them know that they had money available out
5 there. And so I convinced a woman there by the name of Kathryn
6 to -- after she talked to the owner she said it was okay.

7 They went ahead and signed the PDF -- I mean, not the PDF,
8 but the POA and emailed it back to me with a business card.
9 And we went ahead and collected on behalf of their account.

10 Q. I want to show you what is marked as Exhibit Number 35.
11 Just take a look at that. Look at me when you are finished
12 reviewing the documents. And I'll ask you a few questions.

13 A. Okay.

14 Q. Have you had a chance to review the documents? Just flip
15 all the way through and make sure.

16 A. Yes.

17 Q. Do you recognize the documents?

18 A. Yes.

19 Q. How do you recognize the documents?

20 A. I submitted for this. I closed the deal on it. So I
21 submitted for the claim.

22 Q. And do these documents fairly and accurately represent the
23 documents that you either created or compiled as part of the
24 Fryer law firm account?

25 A. Yes. This is the way it is supposed to be done.

1 MR. BROWN: Your Honor, the Government would move to
2 admit Government's Exhibit 35 into evidence.

3 MS. DURRETT: No objection, Your Honor.

4 THE COURT: It is admitted.

5 **Q. (BY MR. BROWN)** Mr. McQueen, you left off -- your last
6 testimony was -- I'm publishing 35, which has been admitted.

7 MR. BROWN: And, Harry, could you switch it back to
8 the document viewer, please. Thank you.

9 **Q. (BY MR. BROWN)** All right. So your last testimony was
10 this is how it is supposed to be done.

11 What do you mean by that?

12 **A.** What I mean by it is supposed to be done is you are
13 supposed to call the client, discuss with them how much they
14 have, and convince them or sell them on collecting on their
15 behalf. Then once you collect that money, then you reissue the
16 funds back to them.

17 **Q.** All right. So looking at this letter, did you sign above
18 your name Terrell McQueen on Page 1 of the Exhibit 35?

19 **A.** Yes.

20 **Q.** And explain what we're looking at here, Mr. McQueen. Let
21 me make -- it is blurred.

22 Can you see that now, Mr. McQueen?

23 **A.** Yes. That is the returned fee agreement. We sent it out
24 as 33 percent. She returned it and cut it down to 25 percent.
25 I didn't have any objections to that.

1 Q. Okay. So is all of the writing on this form legitimate?

2 A. Yes.

3 Q. Was Mr. Pendergrass aware of your efforts to collect these
4 funds?

5 A. Yes, he was.

6 Q. So I'm looking at Page 3 of Exhibit 35. Is that a
7 legitimate notary and signatures for Kathryn Semonsky Newman?

8 A. Yes, it is.

9 Q. That is the law firm's real card? Did you submit it?

10 A. Yes, it is.

11 Q. And, again, is this the record you guys kept in the office
12 of receiving the actual envelope from the City of Atlanta?

13 A. That's correct.

14 Q. Is the next page a copy of the actual check that you guys
15 received from the City of Atlanta?

16 A. That's correct.

17 Q. Now, did this check need to be reissued, or were you able
18 to use this check? Do you recall?

19 A. I recall speaking with Mr. Pendergrass about issuing their
20 money back to them. But I don't remember -- I don't remember
21 the check looking like that.

22 Q. Okay. Now, to your knowledge, did the Fryer law firm
23 receive their money from you and Mr. Pendergrass?

24 A. Yes. I told Mr. Pendergrass we needed to pay them, and we
25 paid them.

1 Q. You also testified about a Roshaunta Redmond?

2 A. Yes.

3 Q. Do you recall?

4 A. Yes.

5 Q. Can you describe for the jury that account and your
6 efforts to collect funds on behalf of Ms. Redmond?

7 A. Yes. Ms. Redmond was a customer on that list from
8 earlier. And I was able to contact her and find her either by
9 phone or email and convinced her to sign. I believe it was
10 five grand that we recovered for her. She came down to the
11 office, and we cut her -- her portion back to her.

12 Q. I wanted to show you what has been marked as Exhibit
13 Number 34. Take a look at that.

14 A. (The witness complies.)

15 Okay.

16 Q. All right. Do you recognize the documents contained in
17 Exhibit Number 34?

18 A. Yes.

19 Q. How do you recognize them?

20 A. I submitted the claim to claim that.

21 Q. So you have personal knowledge of these documents?

22 A. Yes. I closed that deal.

23 Q. Do the documents fairly and accurately depict the
24 documents that you either created or compiled relating to the
25 collection of funds on behalf of Roshaunta Laster or Roshaunta

1 Redmond?

2 **A.** Yes.

3 MR. BROWN: The Government would move to admit 34
4 into evidence, Judge.

5 MS. DURRETT: No objection, Your Honor.

6 THE COURT: It is admitted.

7 **Q. (BY MR. BROWN)** Mr. Pendergrass -- Mr. McQueen, just tell
8 me -- you said the amount -- was that amount correct? \$5250?

9 **A.** Yes.

10 **Q.** All right. Was that check like the other checks mailed to
11 the P.O. Box for Asset Financial Recovery, Inc.?

12 You can look at the screen, Mr. --

13 **A.** Oh, okay. Yes, it was.

14 **Q.** Is this your signature at the bottom?

15 **A.** Yes, it is.

16 **Q.** To your knowledge, is this information here correct as
17 relating to completed by Ms. Redmond?

18 **A.** Yes. She emailed it to me.

19 **Q.** And is this Exhibit Number 34 -- I think it is Page 5 --
20 the actual check that was mailed to the P.O. Box 1809?

21 **A.** Yes, it is.

22 **Q.** Then the last page of the exhibit, do you recognize what
23 we're looking at here, Mr. McQueen?

24 **A.** Yes, I do.

25 **Q.** What is that?

1 **A.** That is a check written out to Ms. Redmond where she came
2 and visited the office.

3 **Q.** All right. Who signed that check?

4 **A.** Mr. Pendergrass signed it. I filled out the check amount.

5 **Q.** So is that your writing on the check amount and the name?

6 **A.** The pay and the amount and then client portion payment,
7 the date. Yes, all of this. And then -- yes, that is my
8 handwriting and then had Mr. Pendergrass sign it.

9 **Q.** So can you explain for the jurors -- I mean, if you know
10 how to do it right, why did you and Mr. Pendergrass steal
11 money?

12 **A.** So the intention was not to steal money.

13 **Q.** Right. I know what the intention was. But the evidence
14 shows otherwise.

15 So why did you do it? Can you explain it to -- is it
16 explainable? I just want to get your explanation.

17 **A.** I didn't think that I had enough time or could close
18 enough deals to pay back that 16 grand from SunTrust.

19 **Q.** Did you discuss this with Mr. Pendergrass about --

20 **A.** Yes, I did. And so that leads up to the Lee Family Trust
21 account, and so --

22 **Q.** So stop before we get to that. I'm going to -- we're
23 almost there -- almost there.

24 Before we get to Lee Family Trust, are you familiar with
25 Tousa Homes?

1 **A.** Tousa Homes?

2 **Q.** Yes.

3 **A.** Yes, I am.

4 **Q.** And how are you familiar with that account?

5 **A.** It is one of the accounts that I worked on for
6 Mr. Pendergrass.

7 MS. DURRETT: Your Honor, could I be heard on this?

8 THE COURT: Yes.

9 MS. DURRETT: Privately?

10 THE COURT: Okay. How long will it take?

11 MS. DURRETT: A minute.

12 **(A bench conference ensued, as follows:)**

13 MS. DURRETT: This is related to the Colorado case,
14 and it is the count for which he was convicted. And so if the
15 Court is not going to let in that conviction, I just don't
16 understand where we're going with this. Because previously the
17 Government said, oh, we're going to call the victim from this
18 case and present evidence at the pretrial conference. And the
19 Court said we're not doing that.

20 And so -- but now we're not letting in the conviction
21 in. What is happening?

22 MR. BROWN: Judge, this is 7. It has already been
23 admitted into evidence. This witness established he has
24 personal knowledge of this account. He worked with
25 Mr. Pendergrass. It is relevant evidence. It is already in

1 evidence. It is already there.

2 So he is allowed to talk about it because he has
3 personal knowledge of this account. He worked with
4 Mr. Pendergrass on this account, Your Honor.

5 He is not going to talk about a conviction. He is
6 just going to talk about his working and getting paid for this
7 money from Mr. Pendergrass along the lines of the other
8 evidence in this case.

9 It is relevant. It is the same time period. Your
10 Honor has already ruled that this evidence was intrinsic. Your
11 Honor just withheld her judgment on the actual conviction under
12 404(b), Your Honor.

13 MS. DURRETT: And at the pretrial conference, he said
14 we're going to call the victim. You said no, there is going to
15 be no evidence.

16 MR. BROWN: Right. And I didn't call her because I
17 didn't want her to fly in from Florida when this witness can
18 establish it. It is already in evidence. It is here. It has
19 been admitted into evidence, Judge.

20 THE COURT: If it is already in evidence, I'm going
21 to allow it in.

22 **(The bench conference was thereby concluded.)**

23 **(A brief break was taken at 3:51 P.M.)**

24 THE COURT: What is your --

25 MS. DURRETT: Your Honor, I'm sorry. I know that the

1 Government is not going to inquire about the conviction or
2 anything improper.

3 But what I wanted to make sure was that Mr. McQueen
4 has been admonished not to mention something like that.
5 Because I don't want something to slip out if he is asking him
6 about Colorado for him to say something inappropriate.

7 MR. BROWN: Yes, Judge. I can admonish him or you
8 can admonish him when he comes back in. That is fine.

9 THE COURT: All right.

10 All right. Mr. McQueen is welcome back.

11 All I was going to say to you -- what was the next
12 document you wanted to --

13 MR. BROWN: It is Exhibit Number 7. It has already
14 been admitted, Judge.

15 THE COURT: I know. We discussed that. I just don't
16 remember the number.

17 MS. DURRETT: Could I ask one more thing?

18 I know the Government said it had two witnesses
19 today. I don't know how many -- if that changed or if that is
20 the same. But we have an investigator here that has been here
21 since 1:00. I don't think we're going to get there, it doesn't
22 seem like.

23 THE COURT: Well, if he closes his case, you can make
24 any motion and preserve argument on it --

25 MS. DURRETT: Okay.

1 THE COURT: -- as well. I mean, I know we have got
2 to do all of those steps. I don't want to foreclose you from
3 making a motion.

4 MS. DURRETT: Right. Okay.

5 MR. BROWN: Can I get Mr. McQueen?

6 THE COURT: Yes.

7 Was your concern, Ms. Durrett, could you release your
8 witness?

9 MS. DURRETT: To have her come back tomorrow.

10 THE COURT: Have her come back tomorrow.

11 Do you have any idea how much longer you are going to
12 be?

13 MR. BROWN: Probably at least half an hour. Maybe a
14 little bit more, Judge.

15 THE COURT: Yes. You can let her go.

16 MS. DURRETT: Thank you, Your Honor.

17 THE COURT: All right. Then you can be in touch
18 later about when you expect to call her.

19 MS. DURRETT: I can check, Your Honor. Thank you.

20 THE COURT: All right. Very good.

21 Mr. McQueen, I just want to advise you before we
22 begin the next part of the examination by your counsel
23 regarding a payee name of Touse Homes. I want to make sure
24 that you don't reference any Colorado legal proceedings or
25 anything that came out of the Colorado legal proceedings.

1 We're just going to talk about this particular
2 transaction, and that is it.

3 THE WITNESS: Okay.

4 THE COURT: All right.

5 MR. BROWN: Yes, Judge. I don't think Mr. McQueen
6 has any knowledge of that.

7 THE COURT: I know. And I just want to make sure
8 that everyone understands that is all I have authorized it for.

9 MR. BROWN: Yes, Judge.

10 MS. DURRETT: Thank you, Your Honor.

11 THE COURT: I think we're ready for everyone to come
12 back.

13 **(The jury entered the courtroom at 4:00 P.M.)**

14 THE COURT: Have a seat.

15 MR. BROWN: Your Honor, may I proceed?

16 THE COURT: Yes, you may.

17 MR. BROWN: Mary, can you load Exhibit Number 7,
18 please?

19 **Q. (BY MR. BROWN)** Mr. McQueen, when we broke, I was asking
20 you about Tousa Homes or Tousa Homes, however you want to
21 pronounce it.

22 Are you familiar with the recovery related to this
23 particular account?

24 **A.** I am.

25 **Q.** What was your involvement in Tousa Homes?

1 **A.** So when I was initially tasked with sending out
2 information to the holders, the information request, that is
3 when I received the list from them.

4 **Q.** Okay. So is it your testimony that you actually sent a
5 request out to Colorado to get a list back of money owed to
6 folks out of that jurisdiction?

7 **A.** That's correct.

8 **Q.** Who signed this document at the bottom?

9 **A.** That's Mr. Pendergrass's signature.

10 **Q.** Let's go to Page 2 of Exhibit 7, please.

11 Now, Mr. McQueen, was Touse Homes a legitimate account or
12 were forged documents used?

13 **A.** So those were forged documents used. It was -- they were
14 part of a mortgage -- mortgage crash. So that was a company
15 that no longer existed.

16 **Q.** So did you do the research and find Touse Homes?

17 **A.** No, I did not.

18 **Q.** So looking at this exhibit, can you identify any of the
19 writing or signatures?

20 **A.** Yes, I can.

21 MS. DURRETT: I would just ask if he was involved in
22 the making of this document or knows about it. Because if he
23 is just speculating, I object.

24 THE COURT: I think that is a fair question.

25 MR. BROWN: All right. And he said he recognized the

1 document, Your Honor.

2 THE COURT: That is different than his being involved
3 with it.

4 MR. BROWN: Okay.

5 **Q. (BY MR. BROWN)** Mr. McQueen?

6 **A.** So I was involved with creating the document. I did not
7 get paid any proceeds from this document.

8 **Q.** So you were involved with the documents; correct?

9 **A.** What is that?

10 **Q.** Were you involved -- is your handwriting on these
11 documents? Do you --

12 **A.** Yes, I recognize my handwriting on this document.

13 **Q.** So let's talk -- start with signature. Do you recognize
14 who signed Solana Keever VP?

15 **A.** Yes, that is Mr. Pendergrass's signature.

16 **Q.** How do you know that?

17 **A.** Because we created these documents together.

18 **Q.** So when you say created together, you're in the same
19 office working on these documents?

20 **A.** That's correct.

21 **Q.** You are watching him? He is watching you; is that
22 correct?

23 **A.** That's correct.

24 **Q.** Do you recognize any other handwriting on this document?

25 **A.** Yes, I do.

1 Q. Whose handwriting do you recognize?

2 A. My handwriting below.

3 Q. So point -- you can actually touch the screen, and it will
4 make a nice round dot.

5 Well, not that much touching.

6 MR. BROWN: Can you clear that, Harry?

7 Q. (BY MR. BROWN) So if you go above -- can you just touch
8 next to your handwriting what you did?

9 A. (The witness complies.)

10 Q. So the bottom portion is your handwriting. Above that the
11 signature is that of Mr. Pendergrass; is that correct?

12 A. That's correct.

13 Q. Let's go to Page 3 of exhibit -- this exhibit, Exhibit 7.
14 Who created the business card?

15 A. I created the business card for him -- for
16 Mr. Pendergrass.

17 Q. Let's go to Page 6 of this exhibit, please.

18 What are we looking at here, Mr. McQueen?

19 A. We're looking at a printout from ZOHO, the customer
20 management system.

21 MR. BROWN: Okay. If you look -- can you highlight,
22 Mary, where it says notes for this holder? It is probably
23 halfway down the page.

24 Q. (BY MR. BROWN) Do you recognize what these notes are for
25 and why these notes were created as a part of this ZOHO

1 software?

2 **A.** I don't remember why those notes were created.

3 **Q.** That is fine. Let's go to Page 7 of the same exhibit.

4 At the top, do you see your name Shawn McQueen?

5 **A.** Yes.

6 **Q.** And below that, do you see modified by Allen Pendergrass?

7 **A.** Yes, I do.

8 **Q.** Does this document reflect that both of you are working on
9 this account?

10 **A.** No, it does not.

11 **Q.** What does it reflect?

12 **A.** That is just the way the system was set up. I worked
13 on -- I helped him with the -- Mr. Pendergrass with the
14 document. And that was it. I didn't put any notes in the
15 system. Mr. Pendergrass did all of the research for this
16 company.

17 MR. BROWN: Can we go to Page 9, the next page, of
18 this exhibit? Actually, let's go back to Page 3 for one minute
19 and just highlight the card, and then we'll go back to 9.

20 Can you enlarge that, please, Mary?

21 **Q. (BY MR. BROWN)** Now, Mr. McQueen, do you see that
22 telephone number (954) 218-1428?

23 **A.** Yes.

24 MR. BROWN: Let's go to Page 9 of this exhibit,
25 please. Can you highlight the top half first?

1 Thank you, Mary.

2 **Q. (BY MR. BROWN)** So, Mr. McQueen, do you see the same
3 telephone number that was on the business card at the top (954)
4 218-1428?

5 **A.** Yes, I do.

6 **Q.** Can you explain for the jury what is this document? What
7 is this about?

8 **A.** So that document MAP Communications is a company that
9 would answer -- it is a phone answering service. And so they
10 would give you a phone number. And then if anyone called that
11 number, they would answer in the company name of your choice.

12 **Q.** Now, why did you use this MAP Communications yourself with
13 other accounts?

14 **A.** I don't remember, but I know there may have been a couple
15 of other companies. I don't remember the names.

16 **Q.** So looking at this document, did Mr. Pendergrass set this
17 up to have a voice mail for Touse Homes based on what we're
18 looking at here?

19 **A.** Yes. Or an -- an active company. A voice mail. Or if
20 anyone from -- called to verify, then they would answer and
21 take a voice message.

22 **Q.** So you already testified you created the business card;
23 correct?

24 **A.** I did.

25 **Q.** So would you have to contact Mr. Pendergrass to get this

1 telephone number to put it on the business card before it was
2 sent?

3 **A.** Yeah. This would have been part of the initial research
4 to -- you get everything lined up first before you start
5 submitting documents. So your phone numbers, your email
6 addresses, your company names. Or if you wanted it to sound
7 more legitimate or an active company, then you would find a
8 company like MAP Communications instead of just a phone number
9 that didn't have a live person picking up the phone.

10 **Q.** All right. So did you use this or was this used by
11 Mr. Pendergrass to steal the money to make it appear
12 legitimate?

13 **A.** It was used by Mr. Pendergrass to make it look legitimate
14 because the company was closed.

15 **Q.** Okay. There is an email address
16 pendergrassallen@gmail.com.

17 Are you familiar with that email address?

18 **A.** Yes, I am.

19 **Q.** Whose email address is that?

20 **A.** That is Mr. Pendergrass's email.

21 MR. BROWN: Mary, can you just go back and highlight
22 the bottom portion of this document, please?

23 **Q. (BY MR. BROWN)** Can you see box eight right there,
24 Mr. McQueen?

25 **A.** Yes.

1 Q. All right. Who signed that document?

2 A. That is Mr. Pendergrass's signature and his printed name.

3 Q. If you look at the bottom, it says answer phrase, thank
4 you for calling Touse Homes or Touse Homes.

5 Is that the message that would be there for the voice
6 mail? Is that how that worked?

7 A. That's correct.

8 Q. If you look on the bottom, I see two email addresses.

9 A. That's correct.

10 Q. Tmcqueen@assetfinancialrecovery.com, whose email account
11 is that?

12 A. That was my email when he had -- he had a database that we
13 were -- that he used to work with at a previous company. The
14 internet guy disappeared and took that database. So we had to
15 come up with a different name. But that was for the company.
16 Yeah.

17 Q. Thank you. So we can take that exhibit down.

18 Mr. McQueen, are you familiar with Michael Burandt? That
19 name, Michael Burandt?

20 A. Yes, I am.

21 Q. I want to show you what has been marked as Exhibit
22 Number 39. Take a look at it, and I'm going to ask you some
23 questions.

24 A. Okay.

25 Q. So do you recognize that document?

1 **A.** I do.

2 **Q.** How are you able to recognize that document?

3 **A.** It was a -- it was a legitimate claim that came in the
4 mail.

5 **Q.** So explain that. A legitimate claim that came in the
6 mail, explain that.

7 **A.** So once the skip tracing is done, once you find the
8 individual and the correct address or the last known address,
9 you would send them a letter with power of attorney, the fee
10 agreement, and the welcome letter.

11 If they agreed with you, then they would send all of that
12 information back postage paid for us to collect on their
13 behalf.

14 This was -- I remember this coming in the mail. So this
15 was one that was legitimate.

16 **Q.** All right. Do those documents found in Exhibit Number 39
17 fairly and accurately depict the documents that you are
18 familiar with from working with Mr. Pendergrass?

19 **A.** Yes.

20 **Q.** Have there been any changes, alterations, or deletions to
21 the documents contained within Exhibit 39?

22 **A.** No.

23 MR. BROWN: The Government would move to admit 39
24 into evidence, Your Honor.

25 MS. DURRETT: No objection, Your Honor.

1 THE COURT: It is admitted.

2 MR. BROWN: Harry, can you switch me back to the
3 overhead?

4 Q. (BY MR. BROWN) Mr. McQueen, I'll direct your attention to
5 the screen in front of you.

6 Is this another recovery from the City of Atlanta?

7 A. Yes, it is.

8 Q. And you previously testified Deidre Barber worked with you
9 and Mr. Pendergrass; is that correct?

10 A. That's correct.

11 Q. And your testimony is that the information here is --

12 A. That is all correct.

13 Q. You testified that they would send their driver's license;
14 is that right?

15 A. That's correct. That is his driver's license.

16 Q. Is this the agreement talking about how much money he
17 would get from you --

18 A. Yes.

19 Q. -- if money was recovered?

20 A. That's correct.

21 Q. And is this the actual -- showing that the money -- the
22 check was sent to the P.O. Box 1809?

23 A. That's correct. Yes, it is.

24 Q. Is this a copy of the actual check that was sent?

25 A. Yes.

1 Q. Did Mr. Michael Burandt receive his money?

2 A. No, he did not.

3 Q. Why not?

4 A. Because Mr. Pendergrass did not pay him.

5 Q. So Mr. Burandt sent the information to you guys to get the
6 money; correct?

7 A. That's correct.

8 Q. Why wasn't he paid?

9 A. Mr. Pendergrass stated to me that he wasn't in a rush to
10 receive his money and he stated to me also that we would pay
11 him later.

12 Q. Do you know if Michael Burandt was ever paid?

13 A. Not to my knowledge.

14 Q. Now, did you have control over the account in which he
15 would have been paid out of?

16 A. No, I did not.

17 Q. So if Mr. Michael Burandt was paid, Mr. Pendergrass would
18 have to send him a check?

19 A. That's correct.

20 Q. I want to show you what has been marked as Exhibit
21 Number 38. Take a look at that and let me know if you
22 recognize that document.

23 A. I do.

24 Q. All right. What is that document?

25 A. This document is a submission for a Mr. Greg Hickman.

1 Q. How are you able to recognize the document? How do you
2 recognize it?

3 A. I remember working on this document with Mr. Pendergrass.

4 Q. Does that document or the exhibits contained within that
5 document fairly and accurately depict the documents that you
6 worked on with Mr. Pendergrass while you worked at his company?

7 A. Yes.

8 Q. Have there been any changes, alterations, or deletions to
9 the documents?

10 A. Yes. So the power of attorney -- the print name is my
11 handwriting. The signature is my handwriting, and the date is
12 my handwriting.

13 Q. So is there anything on that document that has been
14 changed or altered from when you worked on it?

15 A. No. I don't know whose handwriting -- I don't recognize
16 the handwriting below it.

17 Q. But you recognize your handwriting?

18 A. I do recognize my handwriting, and the seal was a photo --
19 photocopied.

20 MR. BROWN: Your Honor, at this time, the Government
21 would move to admit Exhibit Number --

22 THE COURT: 38?

23 It is 38, isn't it?

24 MR. BROWN: -- 38 into evidence, Your Honor.

25 THE COURT: Any objections?

1 MS. DURRETT: No objection, Your Honor.

2 THE COURT: It is admitted.

3 Q. (BY MR. BROWN) All right. Who is Larry Pendergrass?

4 A. It is Mr. Pendergrass's signature, but he didn't want to
5 use his first name.

6 Q. Now, why would Mr. Pendergrass not want to use his first
7 name?

8 A. I don't remember why.

9 Q. But you recognize the signature of Larry Pendergrass to be
10 the same writing and signature used by Mr. Allen Pendergrass?

11 A. That's correct.

12 Q. I want to go to Page 2 of Exhibit Number 38. Do you
13 recognize the writing at the bottom there?

14 I know it is kind of hard to see.

15 A. Yes. That is my handwriting.

16 Q. So you signed this Greg Hickman and put the date here; is
17 that correct?

18 A. That is -- yeah. That is correct.

19 Q. And then do you recognize your handwriting on this
20 particular document?

21 A. Yes.

22 Q. Can you point to your handwriting -- just right next to
23 what is your handwriting?

24 A. (The witness complies.)

25 Q. And do you recognize the handwriting below that?

1 **A.** No, I do not.

2 **Q.** Do you know -- if you don't recognize that writing, would
3 other folks sign these documents again to show two different
4 people being associated with the document?

5 **A.** Yes, they would.

6 **Q.** Now, I know you can't see this. Can you make it out?
7 What are we looking at here? It is kind of hard to see.

8 **A.** It is looks like an ID.

9 **Q.** Now --

10 **A.** But I don't think -- I don't think that is his ID. I
11 don't remember.

12 **Q.** Do you know if Greg Hickman was contacted at all in this
13 particular recovery attempt?

14 **A.** No.

15 **Q.** So if this is not Mr. Hickman's ID, would you know where
16 this ID came from?

17 **A.** So --

18 MS. DURRETT: I object to the form of the question.

19 MR. BROWN: All right. I'll strike that.

20 **Q.** **(BY MR. BROWN)** During the course of working with Mr.
21 Pendergrass, were fake IDs used to your knowledge?

22 **A.** Yes.

23 **Q.** Who obtained those fake IDs?

24 **A.** Mr. Pendergrass already had three or four IDs in his desk
25 drawer.

1 Q. How do you know that?

2 A. Because I saw them there.

3 Q. And what, if anything, would Mr. Pendergrass do with those
4 three or four IDs he had in his desk drawer?

5 A. So we would use the IDs, for instance, to -- if we wanted
6 to submit a person, you could -- you could -- we would have
7 Mr. Fitchpatric change the name on the ID to fit the
8 description of the individual we were submitting for.

9 Q. Do you recognize this handwriting down here?

10 A. Yes. Mr. Pendergrass's handwriting.

11 Q. Then the last page, do you recognize this handwriting?

12 A. Yes. That is my handwriting.

13 Q. Now, why would you write that name four times there on
14 that piece of paper?

15 A. To try to get the motion of a legitimate signature.

16 Q. So you are practicing here; is that fair?

17 A. That's correct.

18 Q. Do you recall whether any funds were recovered?

19 A. No.

20 Q. From Harris County?

21 A. Not for Mr. Hickman.

22 Q. So now let's talk about Lee Family Trust. Did Lee Family
23 Trust also involve Harris County, Texas?

24 A. Yes, it did.

25 Q. So tell me about your involvement and knowledge of the Lee

1 Family Trust.

2 **A.** So the Lee Family Trust came about from the SunTrust issue
3 in January.

4 **Q.** So explain that. You said it came about from that issue.
5 Explain -- what do you mean came about?

6 **A.** So once I owed SunTrust the 16 grand, I wasn't sure how I
7 was going to repay those funds. Mr. Pendergrass spoke to me
8 saying I already have it covered as far as trying to pay that.

9 THE COURT: Move half an inch away from the mic
10 because there is a lot of static.

11 THE WITNESS: Okay. I'm sorry.

12 THE COURT: You just want to be close enough without
13 being so close as to cause electric static on it.

14 **Q. (BY MR. BROWN)** So let's stop there. I want to ask you a
15 question about -- we keep talking -- you keep talking about
16 this \$16,000.

17 Less than about half an hour ago, I showed you three or
18 four checks in which you received in excess of approximately
19 \$20,000.

20 Why didn't you use that money to pay off the SunTrust
21 account?

22 **A.** I wanted to pay them back in its entirety, and I didn't
23 want to make a payment or the agreement wasn't a payment plan.

24 **Q.** Right. But the jury just saw -- and they will have with
25 them when they deliberate -- checks that you received in

1 June 2013 -- they have already -- you have already looked at
2 them, a check for 8000, a check for 4000, another check for
3 4000.

4 So we're getting close to -- you could have used that
5 money?

6 **A.** I could have.

7 **Q.** But you didn't?

8 **A.** I did not.

9 **Q.** So you chose not to?

10 **A.** I was looking for the whole amount, yes.

11 **Q.** Could it also be that you wanted to make more money?

12 MS. DURRETT: Your Honor, I object on leading.

13 MR. BROWN: I'll strike the question.

14 **Q. (BY MR. BROWN)** Let's talk about Lee Family Trust.

15 THE COURT: I'm just a little confused. Four,
16 eight -- you basically -- four checks -- just say what the
17 checks are. The amounts were four --

18 MR. BROWN: Well, I can go back to the exhibit,
19 Judge. My memory is not --

20 THE COURT: No. That is all right.

21 MR. BROWN: We looked at a lot of checks.

22 THE COURT: Four, eight -- even if there were three
23 checks, yeah.

24 MR. BROWN: Four. Eight plus four is 12. Another
25 four is 16. And there are other checks. I was trying to --

1 THE COURT: I got it. All right.

2 Q. (BY MR. BROWN) So Lee Family Trust, who initiated the
3 recovery attempt related to Lee Family Trust?

4 A. Mr. Pendergrass brought to my attention that he already
5 had it done.

6 Q. All right. You are going to have to break this down.

7 A. So --

8 Q. Let me ask the question. He indicated he already had it
9 done?

10 A. Yes.

11 Q. What did he have done?

12 A. The research on it, as far as trying to contact the
13 individual saying that they couldn't be contacted or that they
14 were very -- it was very difficult to contact them.

15 Q. Okay. I want to show you what has been marked as
16 Government's Exhibit Number 9.

17 Take a look at that, and I'll ask you some questions about
18 it.

19 A. (The witness complies.)

20 Okay.

21 Q. Have you had a chance to take a look at the documents?

22 A. Yes. I'm familiar with them.

23 Q. How are you familiar with these?

24 A. I helped create these documents.

25 Q. Do those documents appear to be in the same or similar

1 condition in which you helped create these documents and held
2 them in your office?

3 **A.** Yes.

4 MR. BROWN: The Government would move to admit
5 Exhibit Number 9 into evidence, Judge.

6 MS. DURRETT: Your Honor, I just have the question
7 about the first page.

8 Is that something that he helped create?

9 THE COURT: Go ahead and ask that.

10 **Q. (BY MR. BROWN)** Are you familiar with the first page of
11 Exhibit Number 9?

12 **A.** I'm familiar with it. But I didn't create it.

13 **Q.** And what is it?

14 MS. DURRETT: I'm sorry. Has it been admitted?

15 THE COURT: No. I mean, he is trying to basically
16 figure out --

17 How are you familiar with it?

18 THE WITNESS: So we -- so when you are creating a
19 company, you have to create everything that looks like a
20 company: So the phone number, the fax number, the email
21 address, the address. So that is what this document looks
22 like.

23 THE COURT: All right. But did you work with this
24 specific document yourself? Or is that just -- that is what
25 we're trying to find out.

1 THE WITNESS: Did I work with it?

2 THE COURT: Was this a document that -- you indicated
3 that you didn't draft this document. It wasn't one that you
4 created.

5 THE WITNESS: No. This is just a printout of the
6 file. So that is it. So this document wasn't altered or
7 anything like that.

8 MR. BROWN: Your Honor, if I may add some clarity.

9 THE COURT: All right. Go ahead.

10 MR. BROWN: Can I admit it? This is a document that
11 has already been tendered for entry into evidence by
12 Investigator Ricks as recovered from the actual office, Your
13 Honor. He laid a sufficient foundation for entry.

14 You reserved on that because of concerns about Lee
15 Family Trust. So I think that foundation has been established
16 with Investigator Ricks, Judge.

17 MS. DURRETT: Well, we still object, Your Honor. I
18 mean, we objected yesterday. We object again today.

19 THE COURT: All right. I'll admit it.

20 MR. BROWN: Thank you, Judge.

21 **Q. (BY MR. BROWN)** I showed you these documents, and you were
22 telling me about how Mr. Pendergrass had already done research
23 as related to the Lee Family Trust; is that correct?

24 **A.** That's correct.

25 **Q.** So I want to talk a little bit about this company,

1 Attorney Recovery System.

2 Are you familiar with this company?

3 **A.** Yes, I am.

4 **Q.** Is this the same company that was used with the Holland &
5 Knight account?

6 **A.** Yes, it is.

7 **Q.** And you have already testified you actually established
8 that actual address; correct?

9 **A.** That's correct.

10 **Q.** I want to direct your attention to the bottom of the
11 exhibit, Page 2.

12 Do you recognize handwriting on this document?

13 **A.** Yes, I do.

14 **Q.** And whose handwriting do you recognize?

15 **A.** Do you want me to point to it or talk about it?

16 **Q.** You can do both.

17 **A.** Okay.

18 (The witness complies.)

19 **Q.** Whose handwriting do you recognize?

20 **A.** That is my handwriting all in green. Then the signature
21 of Susan Camille Lee is Mr. Pendergrass's handwriting.

22 **Q.** Once again, how do you know that that is Mr. Pendergrass's
23 signature?

24 **A.** He has a particular way of writing his Ss, his capital
25 letters in cursive. So the C and L. But I was -- I was right

1 there when he signed it.

2 **Q.** So you were present when he was signing these documents?

3 **A.** That's correct.

4 **Q.** Now, obviously since Mr. Pendergrass signed the document,
5 you guys did not get Ms. Camille Lee's permission to do that;
6 is that correct?

7 **A.** That's correct.

8 **Q.** This Page 3 of the same exhibit.

9 Do you know who Michael Cohen is?

10 **A.** Yes. He is an attorney here in Atlanta.

11 **Q.** And was Mr. Cohen involved with the Lee Family Trust?

12 **A.** He was involved, and then he pulled himself out.

13 **Q.** So explain that. What was your understanding about his
14 involvement and how he pulled himself out?

15 **A.** So we -- there was another company that we were supposed
16 to collaborate on to create a debt company. And we had several
17 meetings with several individuals. I don't remember their
18 names. And Mr. Cohen was the attorney of the other individual
19 that we met with.

20 And we were supposed to -- Mr. Cohen was -- had a trust
21 account where we were going to use the funds from the Lee
22 Family Trust to reissue the funds back to us and to create the
23 funds for the company. So we were going to use his trust
24 account as a washing of money sort of to speak.

25 **Q.** Let me stop you there.

1 Why did you need Mr. -- why did you think you needed
2 Mr. Cohen's account?

3 **A.** I didn't think we needed Mr. Cohen's account. Mr.
4 Pendergrass brought in Mr. Cohen to bring some type of distance
5 away from himself.

6 **Q.** Okay. Did you attend any meetings with Mr. Cohen that you
7 can recall?

8 **A.** I believe one -- one meeting. And then the next meeting
9 we were -- it was on the phone. We didn't see him.

10 **Q.** Who did you attend the meeting with, if anyone, with
11 Mr. Cohen?

12 **A.** Mr. Pendergrass and then the associates with the other
13 company. I don't remember their names.

14 **Q.** How many times do you recall meeting with Mr. Cohen?

15 **A.** Just that once.

16 **Q.** So to your knowledge, did Mr. Cohen set up a trust
17 account?

18 **A.** Mr. Cohen already had a trust account.

19 **Q.** I want to publish Page 1 of Exhibit 9.

20 What are we looking at here, Mr. McQueen? If you need me
21 to enlarge it, I can do that.

22 **A.** It looks like the fax number for the Lee Family Trust
23 company me and Mr. Pendergrass created in Florida.

24 **Q.** Okay. Now, why did you create a company in Florida?

25 **A.** Because that is where Ms. Lee's last known whereabouts

1 were.

2 Q. All right. Now, who created that company in Florida?

3 A. I created that company in Florida. It was a virtual
4 address company.

5 Q. I want to show you what has been marked as Government's
6 Exhibit 44. Take a look at that and let me know if you
7 recognize that document.

8 A. Yes, I recognize it.

9 Q. What is that document?

10 A. This document is the -- it is a company we created in
11 Florida.

12 Q. Now, you said we. Is it you or we? Who created the
13 company?

14 A. I created the company. But me and Mr. Pendergrass were in
15 agreement on the step -- on what we needed to do in order for
16 this to work.

17 Q. So take a look at that document -- those documents and let
18 me know when you are finished, and I'll ask you a few
19 questions.

20 MR. BROWN: Your Honor, the Government would move to
21 admit 44 into evidence.

22 THE COURT: All right. It is admitted.

23 MS. DURRETT: I have no objection, Your Honor. I'm
24 sorry.

25 THE COURT: That's all right. It is admitted.

1 Q. (BY MR. BROWN) So we'll go through this very quickly.

2 But, Mr. McQueen, you testified that you created this
3 company in Florida; is that correct?

4 A. That's correct.

5 Q. And why did you create the company?

6 A. So me and Mr. Pendergrass discussed on creating the
7 company to make it look authentic.

8 Q. So this is Page -- I think it is Page 4 of Exhibit
9 Number 44. Is this your information here? Your signature and
10 your name?

11 A. Yes, that is my handwriting. Yes.

12 Q. Obviously this is you; correct?

13 A. That's correct.

14 Q. So after you create that company, does there come a time
15 that checks are received from Harris County, Texas?

16 A. Yes.

17 Q. All right. Where -- who received those checks?

18 A. I received those checks.

19 Q. How did you receive those checks?

20 A. I set up a P.O. Box in Buckhead off of Piedmont.

21 Q. So this -- I'm going to show you what has already been
22 admitted as Defense Exhibit E. So I'm looking at the top of
23 defense -- I think it is 10E actually. Yeah. 10E.

24 So is that address at the top -- are you familiar with
25 that address? 3333 Piedmont Road, Suite 2050?

1 **A.** Yes.

2 **Q.** What is that address?

3 **A.** That address is the address we used -- well, I used or
4 Mr. Pendergrass used for the Holland & Knight and for the Lee
5 Family Trust.

6 I don't know if it was still active at the time that we
7 made this submission, but we still used it anyway.

8 **Q.** So you already testified you received those checks?

9 **A.** Yes. But not at that address.

10 **Q.** Which address did you receive those checks?

11 **A.** There was a P.O. Box.

12 **Q.** Is it right here?

13 **A.** Yeah.

14 **Q.** At the 5511104?

15 **A.** Yes. That is the -- yes, it is.

16 **Q.** So that is the P.O. Box that you controlled; correct?

17 **A.** That's correct.

18 **Q.** Did Mr. Pendergrass have a key to that box?

19 **A.** He did not.

20 **Q.** And did you create that box yourself?

21 **A.** I did.

22 **Q.** All right. Why did you create that box -- that P.O. Box?

23 **A.** We needed a place for -- we needed -- so instead of
24 running into the issue we had with the City of Atlanta with the
25 Holland & Knight, which had just a couple of weeks ago before

1 this was submitted went down, we didn't want that issue. So we
2 just decided just to create a regular P.O. Box, like a business
3 has a submission to send documents.

4 **Q.** And these checks were approximately \$168,000 worth of
5 checks; is that correct?

6 **A.** It was 173, I believe.

7 **Q.** My math is not that good. But it is in evidence here in
8 10E.

9 Do these appear to be the dollar amounts of checks you
10 received?

11 **A.** That's correct.

12 **Q.** So when you received these checks from the P.O. Box, what
13 did you do with them?

14 **A.** Gave them to Mr. Pendergrass.

15 **Q.** Why did you give them to Mr. Pendergrass? Why?

16 **A.** He was running -- he was in control.

17 **Q.** Well, you created the P.O. Box; correct?

18 **A.** Yeah.

19 **Q.** All right. You did the virtual office in Florida;
20 correct?

21 **A.** Yes.

22 **Q.** All right. So how was Mr. Pendergrass in control?

23 **A.** He created -- he opened up a bank account -- a trust
24 account at Bank of America for Lee Family Trust. And \$5000 was
25 deposited into that account.

1 Q. Now, why did Mr. Pendergrass open that account when you
2 had Mr. Cohen to receive this money?

3 A. We didn't have Mr. Cohen yet.

4 Q. Okay.

5 A. This is before Mr. Cohen.

6 Q. And how do you know that Mr. Pendergrass created this
7 account?

8 A. I went to the bank with him. I wasn't inside with him. I
9 was outside on the phone.

10 MR. BROWN: Your Honor, the Government would move to
11 admit Government's Exhibit 25 into evidence. They are bank
12 records from the Lee Family Trust.

13 MS. DURRETT: Your Honor, we don't have an objection
14 to the admission because there is a certification. But we do
15 have an objection to the same issue, which is this witness just
16 said he doesn't know anything about this account.

17 THE COURT: He doesn't know anything about the
18 account. Maybe you need to be very narrow about what you are
19 going to ask.

20 MR. BROWN: Well, can I ask him about the account?

21 THE COURT: Well, you can try to establish a
22 foundation for his knowledge.

23 MR. BROWN: Okay, Judge.

24 THE COURT: If you jump into the materials that he --
25 or if he says he hasn't -- doesn't have knowledge of it, that

1 is a little bit of concern. I think you've got to develop a
2 foundation of what his knowledge is. But he has said he
3 doesn't have any.

4 MS. DURRETT: Right. I think I misspoke, Your Honor,
5 when I said I don't object. I think he has to have some
6 knowledge to even accept it with the business records
7 certification.

8 MR. BROWN: That is not true, Judge.

9 It is Exhibit Number 25, Judge.

10 THE COURT: Yes. I'm getting it.

11 MR. BROWN: Your Honor, I would direct your attention
12 to 25, Page 95.

13 THE COURT: Well, it starts with -- we're on Document
14 25; right?

15 MR. BROWN: Yes.

16 THE COURT: So the first page of it is Page 173. So
17 are you talking about 195?

18 MR. BROWN: So if you look at the -- it says 25-1.
19 Do you see that, Judge, at the bottom of the page center?

20 THE COURT: Yes.

21 MR. BROWN: If you use that number and you just go to
22 page number --

23 THE COURT: 25?

24 MR. BROWN: No. I think I said --

25 THE COURT: 95?

1 MR. BROWN: 95, Judge.

2 THE COURT: Well, you can ask him about this page.

3 MR. BROWN: Okay.

4 MS. DURRETT: Has it been admitted?

5 MR. BROWN: You said -- I moved for admission.

6 THE COURT: You are objecting to it. I'm just saying
7 I'm not going to say that the whole exhibit can be. But this
8 page seems to reflect something that at least he can ask about
9 before it is shown on the screen. Then you can ask him about
10 it, and then we'll see.

11 MR. BROWN: What I wanted to do, Judge, is offer --
12 so there is a business records certification saying it is --
13 lays authentic foundation. So if this witness can establish
14 that it is relevant -- and I think he has already done that --
15 the whole record should come in.

16 But I understand your ruling. So can I show him this
17 page that has been admitted?

18 MS. DURRETT: I don't think it has been admitted, and
19 I object.

20 MR. BROWN: All right. I move for the admission of
21 Government's Exhibit 25, Your Honor --

22 MS. DURRETT: And I object.

23 MR. BROWN: -- based on the business records
24 certification, the relevancy established by this witness.

25 He has established that he was outside when the

1 account was opened. He was working with Mr. Pendergrass to
2 open the account, to negotiate these funds. He gave \$168,000
3 worth checks to Mr. Pendergrass. He has laid sufficient
4 knowledge about this account, Your Honor.

5 So I would ask for the Court to allow 25 to be
6 admitted into evidence, and then I'll go from there, Judge.

7 THE COURT: I'm just dealing with this page at this
8 moment, frankly. It is a quarter of 5:00. I'm just -- you
9 know, I'm just looking at this -- I mean, obviously this page
10 has been certified. So I think he can testify as to the
11 specific check you directed my attention to. And I will
12 consider everything else later.

13 MR. BROWN: Thank you, Judge.

14 MS. DURRETT: Thank you, Your Honor.

15 MR. BROWN: So can I publish it?

16 THE COURT: No. I want him to verify that he knows
17 something about this particular page.

18 MR. BROWN: Sorry, Judge.

19 THE COURT: 25-95.

20 **Q. (BY MR. BROWN)** Take a look at it, Mr. McQueen. Do you
21 recognize that?

22 **A.** I don't remember receiving this check.

23 **Q.** Is your signature on the back of that check?

24 **A.** Yes, it is.

25 **Q.** So did you sign it?

1 **A.** I did.

2 **Q.** Did someone else sign your name?

3 **A.** No.

4 **Q.** Did you receive money from Lee Family Trust?

5 **A.** Yes.

6 THE COURT: You can publish it.

7 MR. BROWN: Thank you, Judge.

8 **Q.** **(BY MR. BROWN)** Now, Mr. McQueen, I think you just
9 testified you don't remember receiving this check; is that
10 correct?

11 **A.** That's correct.

12 **Q.** Did you receive a number of checks from Mr. Pendergrass?
13 From the time you worked for him, how many checks did you
14 receive from him approximately? More than 10?

15 **A.** More than 10. Maybe less than 30.

16 **Q.** Okay. Is this your signature on the back of this check?
17 Did you sign that?

18 **A.** Yes.

19 **Q.** So you did receive the check; correct?

20 **A.** I did, yes.

21 **Q.** And did this check come from the Lee Family Trust?

22 **A.** Yes, it did.

23 **Q.** And who signed the check?

24 **A.** Mr. Pendergrass.

25 **Q.** Is that your home address on this check, Mr. McQueen --

1 **A.** Yes. Well, it was at the time, yes.

2 **Q.** -- at the time? Now, why would you receive money from the
3 Lee Family Trust?

4 **A.** I don't remember the reason why I would have received that
5 low of an amount.

6 **Q.** Should you have received more than \$250 from this account?

7 **A.** Yes. That was the plan.

8 **Q.** You testified that approximately \$5000 were deposited in
9 this account; is that correct?

10 **A.** That's correct.

11 **Q.** How do you know that?

12 **A.** I was at the bank when he opened the account.

13 **Q.** And that \$5000 approximately, where did it come from?

14 **A.** It came from the 173 that we got from the P.O. Box in
15 Atlanta.

16 **Q.** And where was that 5000 check from? Who issued the check?

17 **A.** Harris County issued that check.

18 **Q.** And why did they issue that check?

19 **A.** Because we made the submission for the 5000 and the 60 and
20 the 20 and the other ones.

21 **Q.** Okay. I'm going to show you what is marked as -- it is
22 not in evidence yet -- 25-66. 25-66.

23 Take a look at this, Mr. McQueen. Tell me if you
24 recognize it.

25 **A.** Yes.

1 Q. What is it?

2 A. It is a check for 5,184.83.

3 Q. Is that a copy of the exact check you gave to
4 Mr. Pendergrass?

5 A. Yes.

6 MR. BROWN: Your Honor, permission to publish or
7 admit first and then publish it?

8 THE COURT: Is there any objection?

9 MS. DURRETT: I don't object to it, Your Honor.

10 THE COURT: All right.

11 Q. (BY MR. BROWN) So you testified that this is a check in
12 the amount of \$5184; is that correct?

13 A. Yes.

14 Q. Is this a check that you actually received in your P.O.
15 Box that you controlled?

16 A. Yes, it was.

17 Q. Okay. Do you -- did you give all the checks to
18 Mr. Pendergrass or just this one check?

19 A. No. I gave all of them to him.

20 Q. Why was this check just deposited into the account, if you
21 know?

22 A. Mr. Pendergrass did not want what happened at SunTrust and
23 PNC to happen with this Bank of America check. So he was going
24 to sprinkle or drop the checks in the Bank of America check
25 periodically so it wouldn't make -- it wouldn't raise any red

1 flags.

2 **Q.** Mr. McQueen, did you have any control over the Lee Family
3 Trust Bank of America account?

4 **A.** No, I did not.

5 **Q.** Did you have signing authority?

6 **A.** No, I did not.

7 **Q.** Did you have a debit card?

8 **A.** No, I did not.

9 **Q.** Who controlled that account?

10 **A.** Mr. Pendergrass controlled that account.

11 MR. BROWN: Your Honor, I have about probably half an
12 hour more to go with him. I don't know if you want to break
13 for the day or we want to keep going.

14 THE COURT: Are you at the end of the subject matter?

15 MR. BROWN: I can stop here, yes, Judge.

16 THE COURT: All right. Ladies and gentlemen, then
17 we'll continue tomorrow and hopefully begin on time. I don't
18 have anything I have to deal with them first on. So I think
19 we'll be able to.

20 But I want to just -- to make sure that you are not
21 sitting for too long, I want to chat with counsel about our
22 schedule a little bit. If you would just hang out for a minute
23 or two in the jury room, then I'll get -- once we figure this
24 out, I'll get Mr. Martin to come back and tell you for sure
25 that it is 9:30 rather than later. Thank you very much.

1 **(The jury exited the courtroom at 4:50 P.M.)**

2 THE COURT: Sir, you're going to be excused for this
3 afternoon. But please don't discuss your testimony with anyone
4 whatsoever, and we'll see you tomorrow morning. And counsel
5 will tell you exactly -- I don't know whether you want to keep
6 him on hold.

7 MR. BROWN: Your Honor, his attorney is here. I'll
8 let Jeff Ertel know, Judge.

9 THE COURT: Mr. Ertel, I'm not quite sure. So maybe
10 you want to have your client -- him sit outside, and then you
11 can chat with him about the time. Because I'm not sure when
12 we're going to start exactly. I wanted to talk to them. It
13 will just be a minute or two.

14 MR. ERTEL: Don't chat with them about anything?

15 THE COURT: Just about the fact -- no. I want him to
16 know when we are beginning -- we'll need him tomorrow. And I
17 won't know until I get to talk to counsel for a few minutes.

18 MR. BROWN: I'll let you know what time. I will come
19 out and tell you.

20 THE COURT: You may step down.

21 **(The witness exited the courtroom.)**

22 THE COURT: I'm just trying to -- we're going to try
23 to send you the draft of the jury charge later tonight. And
24 so, you know, I hate to keep the jury waiting at lunchtime. It
25 doesn't look like we're going -- it looks like we'll finish

1 tomorrow. But I don't think that we're going to finish in time
2 for -- it seems likely for closing arguments.

3 But if you think -- or for us -- you know, I'm just
4 thinking the time is short. But I don't know how long your
5 cross-examination will be.

6 MS. DURRETT: If it is half as long as the
7 Government's, it is going to be a long one. So I don't know.

8 THE COURT: Yeah.

9 All right. So it seems more sensible to me to just
10 start at 9:30 rather than having them come in late and go as
11 long as we need to and then have the conversation about the
12 jury instructions. Okay?

13 MR. BROWN: I think so, Judge.

14 MS. DURRETT: So if we finish, would we do closings
15 tomorrow?

16 THE COURT: No. We have got to do the jury
17 instructions. I don't want to be -- anything that can go wrong
18 with even the production of the jury instructions can go wrong.
19 And, you know, I really like to get counsel also to help me in
20 proofing in some ways because we always miss something.

21 MR. BROWN: Judge, may I give you just a little
22 bit -- I have one more witness, Judge, after Mr. McQueen. The
23 last witness is a case agent who reviewed the financial
24 documents.

25 So I figured I would front this issue. There seems

1 to be an objection about these bank records.

2 THE COURT: All right. Just one second.

3 You let them know about 9:30.

4 Go ahead.

5 MR. BROWN: I have tried many fraud trials. I have
6 an investigator who has reviewed these records and will testify
7 about his review and analysis. I provided defense counsel two
8 summary charts so as to not go through a tedious review of
9 these records. It is relevant to show how the money was
10 spent -- the fraudulent funds were spent.

11 And that is what the Government will do with this
12 witness so the jury can understand how the money came in and
13 how it was spent.

14 And I expect that shouldn't take too long, Your
15 Honor, but I want to let you know. And I don't expect any
16 additional objections to the records.

17 I think I spoke with Ms. Durrett, and she is going to
18 allow the records to come in.

19 So I'm just a little confused what the issue is with
20 me looking at them with Mr. McQueen when he --

21 THE COURT: You mean we're talking about the records
22 we just have been discussing?

23 MR. BROWN: Right. Yes. Because he has intimate
24 knowledge of the actual records himself. But that is
25 nonetheless. I just want to give you a heads-up where we are

1 going, Judge.

2 MS. DURRETT: I mean, I agree with that, Your Honor.
3 I do think it is inappropriate for Mr. McQueen to be going
4 through the bank records and talking about them.

5 But I assume that the investigator will say that was
6 part of his investigation was looking at the bank records. And
7 they do have a certification. So we would not object to them
8 coming in.

9 MR. BROWN: So then my last point -- I'm not going to
10 beat a dead horse. I'm not -- I'm not going to use Mr. McQueen
11 for that. But there are particular checks, like I showed some
12 of them before, to come in.

13 So I showed you one from this exhibit. So the
14 Government's position would be that Exhibit 25 should come in
15 and he should be able to review evidence that is relevant to
16 him, like the check I just showed that he actually gave to
17 Mr. Pendergrass to deposit into the account. That is relevant.

18 I just want to show the connection between the two
19 and how the money flowed. And I think that is relevant for
20 this witness to do that. And I just want to put that out
21 there, especially if the evidence is coming in anyway. It has
22 already been -- it is going to be admitted without objection,
23 Judge.

24 MS. DURRETT: Your Honor, I do object to that of him
25 going through -- he has said what I know about the bank account

1 is I was outside when the bank account was opened. And so then
2 Mr. Brown is, like, well, let's go through the records then and
3 have you tell us about the records.

4 He doesn't know about the bank records. He may have
5 received checks, and he can testify about that if he wants to
6 show him his individual checks.

7 But the idea that this guy who stood outside the bank
8 when the bank account was opened can now tell us he knows about
9 the records --

10 THE COURT: Well, there are other ways he could know
11 about the records. But I -- but he hasn't professed to such
12 knowledge.

13 MR. BROWN: Understood, Judge. I understand where
14 you are coming from. I respect --

15 THE COURT: If there is a check that he has knowledge
16 of or a document that is within this, that is okay.

17 MR. BROWN: Okay. Thank you, Judge.

18 THE COURT: All right.

19 MR. BROWN: Has 25 been admitted yet? I want to make
20 sure I am clear.

21 THE COURT: No. No, it has not been admitted yet.
22 Just the one part of it that you had him testify about.

23 MR. BROWN: For the sake of clarity, can I admit it
24 because she's not going to object? I'm not going to talk with
25 this witness about it.

1 THE COURT: I didn't hear that she wasn't going to
2 object.

3 MS. DURRETT: Right.

4 Is there an agent who is coming? If they are
5 admitted through the agent, I don't have an objection.

6 MR. BROWN: Thank you, Your Honor.

7 MS. DURRETT: I know things will go as long as they
8 go. I'm back to wondering about when my witnesses should be
9 here because I know we have Mr. McQueen starting at 9:30.

10 THE COURT: It doesn't seem like your witnesses --

11 MS. DURRETT: Probably 1:00?

12 THE COURT: -- will be reached until the afternoon.
13 You still have to factor lunch in.

14 MS. DURRETT: Thank you, Your Honor.

15 THE COURT: So -- and your examination of all of
16 these people. So it doesn't seem very likely.

17 MS. DURRETT: Yeah. Thank you, Your Honor.

18 THE COURT: If you -- but I would like to sort of get
19 this 404(b) issue behind me so -- because we have lots of other
20 issues in front of us.

21 So you asked to be heard, and I was going to give you
22 an opportunity to be heard.

23 MR. BROWN: Now or later?

24 THE COURT: Now. Because I want to deal with it.
25 We'll have so many other --

1 MR. BROWN: I know. Right. Well, I see where this
2 is going.

3 But thank you, Judge, for giving me the opportunity
4 to be heard. I appreciate it.

5 **(There was a brief pause in the proceedings.)**

6 MR. BROWN: So the Government believes that the
7 evidence is necessary and is relevant, Your Honor. The
8 Government withdrew and did not object to the other conviction
9 from Ohio coming in because I think it is a different kind of
10 case.

11 But this case -- we're, in fact, talking about Touse
12 Homes. It has already been admitted into evidence relating to
13 Mr. Pendergrass's involvement with Touse Homes.

14 The defense argument is clear as related: He lacked
15 the knowledge, the intent involved with these kind of crimes.
16 The evidence, I think, is clear. The case law is on the
17 Government's side on the admission.

18 Always the Court has wide discretion. The case law
19 is on the Government's side of this kind of 404(b) coming in.
20 It matches up in time, parties, scope, conduct. It lines up on
21 every particular way the Court would judge whether this
22 evidence should come in.

23 So therefore -- and I don't think it is more
24 prejudicial than probative. It is probative. Why is it
25 probative? Because it establishes the very knowledge and

1 intent he is denying.

2 Your Honor, I mean, this case is -- I have cited the
3 case law in my brief. And I can cite 20 more cases where the
4 Eleventh Circuit will affirm the use of a 404(b) in this
5 particular kind of case. It is directly on point.

6 This is what the 404(b) rule was meant for, Your
7 Honor, and I think you should allow the Government to use it.
8 I can cite you many more cases if you want some that will show
9 that the Eleventh Circuit will affirm this kind of use of
10 404(b) .

11 THE COURT: The 404(b) in this context is really a
12 judgment -- a judgment call. It is not like I'm worried
13 about -- either way about what the Eleventh Circuit would do.
14 I feel comfortable that they will leave it to my discretion.

15 But you have put up a mountain of evidence. And I
16 have let you with this most recent evidence also get more
17 specific evidence about the Lee Trust in so that they can see
18 that.

19 But, you know, basically also there is the strong
20 cautionary concern that a court should be mindful that prior
21 crime evidence has a significant potential for prejudicial
22 effect and therefore should not be allowed in unless really
23 necessary.

24 So as you well know, if the Government has a weaker
25 case, let it in. If the Government has a strong case without

1 the extrinsic evidence, the prejudice will more likely outweigh
2 the marginal probative value.

3 And my assessment is -- given the strength of the
4 Government's case and the nature of the evidence introduced is
5 the Government does not need such evidence here and that
6 fairness dictates that I exclude it at this juncture.

7 I have considered this as we have heard all of the
8 evidence. I wasn't sure before. But, you know, you have had
9 an array of witnesses and a large volume of documentary
10 evidence and more to come.

11 So I'm just -- you know, because we have the time
12 today to address it and we talked about it, I just at this
13 juncture feel like that I can rule. And it will be one less
14 thing to rule on.

15 I don't think anything is going to change about this.
16 Given what I see also from this witness, your last witness
17 yesterday, all of the other individual witnesses, you have just
18 really -- there is a whole array of strong evidence that you
19 have presented here.

20 And that is -- I don't think this is essential. But
21 it does have a prejudicial impact that is unnecessary under
22 those circumstances. So I'm going to exclude it.

23 MR. BROWN: Thank you, Judge.

24 THE COURT: To that extent, you know, I will modify
25 my prior ruling and to that limited degree, which is not really

1 the issue that you dealt with in the motion for -- for
2 reconsideration. But I fully -- but I addressed it. And so to
3 that extent, I modify my prior ruling.

4 MS. DURRETT: Thank you, Your Honor.

5 MR. BROWN: Thank you, Judge.

6 THE COURT: All right. So it sounds like we're going
7 to have a jam-packed day again.

8 MR. BROWN: Yes.

9 THE COURT: And -- okay. We'll try to get you the
10 jury charges tonight so you can look at them. But I don't know
11 precisely when.

12 All right. Thank you, Counsel.

13 MR. BROWN: Thank you, Judge.

14 **(The proceedings were thereby adjourned at 5:04**
15 **P.M.)**

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C E R T I F I C A T E

UNITED STATES OF AMERICA

NORTHERN DISTRICT OF GEORGIA

I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of the United States District Court, for the Northern District of Georgia, Atlanta Division, do hereby certify that the foregoing 242 pages constitute a true transcript of proceedings had before the said Court, held in the City of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 5th day of January, 2022.

Shannon R. Welch

SHANNON R. WELCH, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
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